

CITY OF CLEARLAKE ORDINANCE NO. 277-2024

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE
AMENDING CHAPTER VIII, SECTION 8-5 TO ADD SUBSECTION 8-5.7
TO ESTABLISH ADDITIONAL REQUIREMENT FOR UTILITY CONSTRUCTION AND MAINTENANCE
IN THE PUBLIC RIGHT OF WAY AND SUBSECTION 8-5.8 TO ESTABLISH STANDARDS FOR
RELOCATION OF UNDERGROUND UTILITIES IN THE PUBLIC RIGHT OF WAY**

WHEREAS, the City Council finds that the maintenance of City streets and the integrity of the City street surfaces are of vital concern to the citizens of the City; and

WHEREAS, the coordination of the City's street reconstruction and capital improvement projects with the separate water and sewer districts serving the Clearlake citizens is essential in providing both water and sanitation services and safe streets; and

WHEREAS, the proposed amendments to the City of Clearlake Municipal Code, provide for the "public necessity and convenience and general welfare;"

WHEREAS, the proposed amendments would not be detrimental to the public's health, safety and welfare;

WHEREAS, the City of Clearlake staff, pursuant to the provisions of the California Environmental Quality Act (hereinafter "CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) has determined that the Ordinance is exempt pursuant to Section 15061(b)(3) of Title 14 the California Code of Regulations; and, no further environmental analysis is required, and a notice of exemption will be filed.

THE CITY COUNCIL OF THE CITY OF CLEARLAKE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings.

The City Council hereby incorporates by reference the above recitals and the finding of exemption set forth in Section 3.

Section 2. Chapter VIII, Section 8-5 of the Clearlake Municipal Code is amended to add a new subsection 8-5.7 to read as follows:

8-5.7 Permit Requirements for Utilities in the Public Right of Way

a. Utility Operation and Maintenance

1. No utility company shall place, maintain, or operate any facility in the public

right-of-way unless it holds a valid permit issued by the City. The permit shall specify the location, nature, and scope of the encroachment.

2. Utilities shall be responsible for maintaining their facilities in good repair, ensuring that they do not obstruct or interfere with public use of the right-of-way, including sidewalks, streets, and other infrastructure. All utilities (including but not limited to electric, gas, water, telecommunications, fiber optic, and sewer services) operating in or under the public right-of-way in the City are responsible for the installation, maintenance, and repair of their facilities, including pipes, conduits, valves and valve boxes, wires, cables, poles, manholes, and any other associated infrastructure.

b. Utility Repair and Restoration

1. Whenever a utility causes any damage to the public right-of-way, including roadways, sidewalks, or other public infrastructure, the utility shall be responsible for restoring the area to its original condition or better.
2. The utility must complete all restoration work within a timeframe and to standards determined by the City Engineer, based on the scope of the work and public safety concerns. Failure to restore the right-of-way to an acceptable condition within the approved timeframe will result in the City taking corrective action, with all the costs charged to the utility.

c. Evacuation and Restoration Standards

1. Utilities must follow the City's specific excavation and restoration standards as outlined in the City standards. This includes requirements for trenching, backfilling, surface restoration, compliance with and applicable permit conditions or environmental documents, and compliance with any traffic control measures during construction.
2. After performing any excavation in the right-of-way, the utility must restore the area to the condition prescribed by the City within a period of no more than 10 days, unless an extension is granted by the City due to special circumstances. Temporary resurfacing may be allowed subject to the City Engineer's discretion, provided the City has approved a schedule for final resurfacing.

d. Emergency Repair Procedures

1. In the event of an emergency where immediate repair to utility infrastructure is necessary for public safety or to restore service, the utility may proceed without prior City approval. However, the utility must notify the City within 24 hours of the emergency and submit a report detailing the work completed, as well as any damage caused.
2. The utility is still required to comply with the City's restoration standards and complete permanent repairs in accordance with City standards and approval of the City Engineer.

e. Liability for Damage to Public Property

1. The utility is liable for any damage caused to public infrastructure as a result of its activities in the right-of-way. This includes damage to road surfaces, curbs, sidewalks, storm drains, trees, signage and traffic signals, and any other improvements within the public right-of-way.
2. The utility is required to indemnify and hold the City harmless for any claims arising from the utility's operations, including damage to the right-of-way or

injury to individuals due to the utility's actions.

f. City's Right to Perform Repairs

1. If the utility fails to make repairs or restorations within allowed timeframes as required by this section, the City may perform the work and bill the utility for the costs, including labor, materials, and overhead.

g. Inspection of Utility Work

1. The City reserves the right to inspect all work conducted by utilities in the public right-of-way and review and approve any test results required. Inspections shall be performed at reasonable times, and utilities must provide reasonable notice and access to their facilities as necessary for inspection purposes.
2. If the utility's work does not meet City standards, the utility will be required to make corrections at its own expense.

h. Abandonment of Underground Facilities, Reports, and Maps

1. Whenever any infrastructure is abandoned in the public right-of-way, the utility owning, using, controlling or having an interest therein, shall, within 30 calendar days after such abandonment, file with the City Engineer a report in writing, giving in detail the location of the infrastructure so abandoned. Each map, set of maps, or plans filed pursuant to the provisions of this section shall show in detail the location of all such infrastructure abandoned subsequent to the filing of the last preceding map, set of maps, or plans.
2. It shall be unlawful for any person to fail, refuse, or neglect to file any map or set of maps at the time, and in all respects as required by this Section.

8-5.8 Relocation of Utilities Required

a. Conflict with City Improvements

1. All underground or above ground utility pipelines, conduits, structures, connections, and ancillary facilities owned by any public or private utility in the public right of way which interfere or conflict with City capital improvement projects or street reconstruction or maintenance projects, shall be relocated to locations and depths to eliminate such conflicts with the specific City project. Relocations shall be done to engineering standards adopted by the City and state laws and regulations in effect as of the date of notification of the City project. Relocations shall be accomplished within 180 days of written notice of the City project, or such other period of time reasonably necessary to complete the relocation when such additional time for performance of the relocation is approved by the City Council. This includes the utility owner's requirement to lower conflicting infrastructure such as valve boxes and manholes to allow repair of the roadway structural section, or grinding and resurfacing operations, and subsequently raising of such infrastructure following street repair/resurfacing.

b. Permit Required

1. All relocation projects required by subpart a. above shall only be constructed after application for and the issuance of an encroachment permit signed by the City Engineer, subject to all procedures set forth in this section 8-5. The City Engineer shall evaluate the encroachment permit application and render a

decision to deny, conditionally approve, or approve the encroachment permit. Such approval constitutes the granting of a conditional revocable permit for an encroachment and such permit shall remain in effect as long as the permittee complies with all conditions established for the granting of such permit.

c. Appeals

1. Any person or entity aggrieved by the refusal of an encroachment permit required by this subsection may appeal to the city council. All appeals must be filed with the city clerk within thirty days of the mailing of the decision of the city engineer for scheduling on the city council's calendar.

Section 3. Environmental Determination. The proposed ordinance has been reviewed for compliance with CEQA, the CEQA Guidelines, and the City's environmental procedures. Because the proposed ordinance is an administrative activity which will not result in direct or indirect physical changes to the environment, it has been found to be not a project under Section 15378 (b)(5) of the CEQA Guidelines.

Section 4. Inconsistencies. Any provision of the Clearlake Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and/or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

Section 5. Severability. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 6. Effective Date. This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in a newspaper of general circulation printed and published in the County of Lake and circulated in the City of Clearlake and hereby designated for that purpose by the City Council.

Section 7. Certification. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in a newspaper of general circulation printed and published in the City of Clearlake, State of California, which said newspaper is hereby designated for that purpose.

The foregoing ordinance was introduced before the City Council on the 21st day of November 2024 and passed by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

Mayor David Claffey

ATTEST:

Melissa Swanson, City Clerk