

## ORDINANCE NO. 840

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF EVERMAN, BY AMENDING CHAPTER 20, "UTILITIES," ARTICLE VIII "UTILITY AND TELECOMMUNICATIONS FACILITIES WITHIN THE RIGHT-OF-WAY" BY AMENDING SECTION 20-343 "RESTORATION OF RIGHT-OF-WAY" AND SECTION 20-347 "PENALTY"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE AND, IN CASES OF ENDANGERMENT TO PUBLIC HEALTH AND SAFETY, A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Council has previously adopted provisions governing utilities in the public rights-of way; and

**WHEREAS**, the City desires to update those provisions to incorporate provisions to increase pavement life, decrease maintenance costs, and increase the rideability of the city's streets; and

**WHEREAS**, the major changes are designed to eliminate spot pavement repairs in favor of a more complete replacement to accomplish the City's goals; and

**WHEREAS**, the City Council of the City of Everman finds it to serve the health, safety and general welfare of the City to approve this ordinance amending and updating the provisions related to restoration of the rights-of-way within the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS THAT:**

**SECTION 1.** That Chapter 20, "Utilities", Article VIII "Utility and Telecommunications Facilities Within the Right-of-Way" be and it is hereby amended by amending section 20-343 "Restoration of Right-of-way" to read as follows:

**"Sec. 20-343. – Restoration of right-of-way.**

- (a) After completion of any work within the right-of-way, a permit holder shall return all flowlines and grades in the right-of-way to their original condition and shall complete restoration, which shall include, but not be limited to:

...

(8) In order to maintain an acceptable riding surface on the street, the utility company, developer, or contractor shall replace the pavement surface according to the age, Pavement Condition Index (PCI) and type of the pavement. Backfill and compaction testing in accordance with current North Central Texas Council of Governments (NCTCOG) Standard Specifications may be followed in lieu of flowable fill. However, flowable fill is required to

backfill all trenches in downtown streets. Any damage to the street surface caused by the utility construction project, including damage related to staging operations and material storage, must be properly repaired at the contractor's expense.

(9) Replacement of pavement shall adhere to the following guidelines:

A. New Pavement

If a utility company, developer, or contractor desires or is required to cut the street within the first two (2) years of construction or reconstruction, the entity must receive approval from the Director. For concrete streets less than two (2) years old, effective August 12, 2025, the entity must replace each whole slab with flowable fill, High Early Strength (HES) concrete according to NCTCOG Standard Specifications or better, and meet a 12-foot straightedge requirement with a maximum allowable deviation of ¼ inch. For asphalt streets less than two (2) years old, effective August 12, 2025, the entity must mill and overlay the existing asphalt a minimum of two (2) inches using a paving machine from curb to curb and block to block.

B. Concrete Pavement:

*Effective August 12, 2025*

2 years to 10 years or greater than 85 PCI	Entire Panel
More than 10 years and less than 85 PCI	Entire Panel with some exceptions

Partial panel replacement of concrete pavement more than ten (10) years old and less than 85 PCI, may be allowed, if the panel is larger than 20 feet. The partial panel replaced shall be equal to a half panel and the remaining half panel must be intact without any identifiable damage as shown in Drawing P-15, a copy of which is maintained in the Office of the Director of Public Works and the Office of the City Secretary.

C. Asphalt Pavement:

*Effective August 12, 2025*

2 to 10 years or greater than 85 PCI	Overlay half of pavement, curb to centerline, for 50 feet in length
More than 10 years and less than 85 PCI	Overlay 1 lane width (approx. 12') for 30 feet in length

If a street is scheduled for construction start within 6 months and programmed for total reconstruction under a Capital Improvement Program or resurfacing under a Street Maintenance Program, permanent trench repair is acceptable.

(10) Red-line drawings/field notes must be furnished thirty (30) calendar days

after completion of each construction segment. Record ("as-built") Drawings must be provided within thirty (30) calendar days after time of final completion of the project. Submissions shall be provided in portable document format (PDF).

(11) The following drawings are adopted by the City of Everman to apply to partial panel concrete replacement and partial asphalt replacement and are on file in the Office of the Director of Public Works and the Office of the City Secretary:

Drawing P-15      Partial Panel Concrete Replacement

Drawing P-16      Partial Asphalt Replacement"

**SECTION 2.** That Chapter 20, "Utilities", Article VIII "Utility and Telecommunications Facilities Within the Right-of-Way" be and it is hereby amended by amending section 20-347 "Penalty" to read in its entirety as follows:

**"Sec. 20-347 – Penalty.**

Any person, firm or corporation that violates, disobeys, omits, neglects, or refuses to comply with or that resists the enforcement of any of the provisions of this article shall be fined not more than five hundred dollars (\$500.00) for each offense, with each day a violation is permitted to exist constituting a separate offense. Provided, however, that in cases of endangerment to public health and safety, a penalty of fine not to exceed the sum of two thousand dollars (\$2,000.00) may be provided for each offense, with each day a violation is permitted to exist constituting a separate offense."

**SECTION 3.** All ordinances of the City of Everman, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of the ordinance shall remain in full force and effect.

**SECTION 4.** Should any section, paragraph, sentence, subdivision, clause, phrase, or provision of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be unconstitutional, illegal, or invalid and shall not affect the validity of the remainder of this ordinance or any other provision of the Code of Ordinances of the City.

**SECTION 5.** This ordinance shall take effect immediately upon its passage and adoption and the publication of the caption as the law and charter in such cases provide.

**DULY PASSED** by the City Council of the City of Everman, Texas, on this the \_\_\_\_\_ day  
of \_\_\_\_\_ 2025.

**APPROVED:**

\_\_\_\_\_  
**Ray Richardson, Mayor**

**ATTEST:**

\_\_\_\_\_  
Mindi Parks, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Victoria Thomas, City Attorney