

ARTICLE 15.08
UTILITY CONSTRUCTION IN PUBLIC RIGHTS-OF-WAY

DIVISION 1
Generally

§ 15.08.001. Definitions.

For purposes of this article, the following definitions shall apply:

Business day. A day when the municipal building of the city is open to the public for business.

Emergency. Operations and repairs necessary to respond to a situation that endangers life, health and safety, or property, or a situation in which the public need for uninterrupted service and reestablishment of service, if the service is interrupted compels immediate action. Upgrading of facilities, new service installation and neighborhood improvement projects are not emergency operations.

Excavation. An activity that removes or otherwise disturbs soil in the right-of-way at a depth of sixteen inches (16") or more, or disturbs any street or alley pavement of any depth.

Major project. A utility project requiring installation or replacement of utility facilities in the right-of-way for a distance greater than one (1) mile.

New street. The paved portion of the street right-of-way that has been constructed or reconstructed in the last five (5) years.

Pavement condition index (PCI). A measure of the condition of the street, on a scale of 1 to 100. The PCI is available from the city engineer.

Permit holder. Any person, partnership, corporation, utility, ROW user or any other legal entity that has been granted a permit for construction work in the city's right-of-way or other public property.

ROW user. A franchised utility, a certificated telecommunications company, or any other privately or publicly owned utility authorized to conduct business using city right-of-way in order to install, construct, maintain or repair their facilities in the city right-of-way. The term "ROW user" shall also include any contractor or other agent or person engaged by a ROW user to work on facilities located in city right-of-way. The granting of a permit to a contractor or agent of a ROW user shall be deemed to be the granting of a permit to the ROW user for purposes of this article.

Sanitary sewer service line. A service line that is a privately owned (typically) 4" diameter underground gravity pipe that extends from the city's municipal sewer main to the residential/commercial/industrial structure receiving service. The service line conveys the wastewater generated by customers to the municipal wastewater collection system.

Sewer main line. A municipally owned and maintained 6" or greater underground gravity pipeline located within public ROW or easement that collects wastewater from sewer service lines via sewer taps and conveys wastewater toward sewer trunk lines and

interceptors.

Street in good condition. The paved portion of the street right-of-way that has a PCI of 92 or above.

TMUTCD. The Texas Manual on Uniform Traffic-Control Devices, latest edition.

Traffic control. The planning and installation of all signs, signals, markings, and other devices used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, pedestrian facility, bikeway, or private road open to public travel, the purpose of which is to promote highway safety and efficiency by providing for the orderly movement of all road users on streets, highways, bikeways, and private roads open to public travel throughout the state and the nation.

Trenchless technology. A type of subsurface construction work that requires few trenches or no continuous trenches, utilizing various methods, materials, and equipment for the installation of new, replacement, or rehabilitation of existing underground infrastructure with minimal disruption to surface traffic, business, and other activities.

Utility. Any privately or publicly owned entity which uses public rights-of-way to furnish to the public any general public service, including, without limitation, sanitary sewer, storm sewer, gas, electricity, water, telephone, telecommunications, petroleum products, telegraph, heat, steam or chilled water, together with the equipment, structures, and appurtenances belonging to such entity and located within and near the right-of-way.

White lining. Marking an excavation site with washable marking paint or flags prior to requesting a utility locate in order to further identify the site.

(Ordinance 565 adopted 4/5/21)

§ 15.08.002. Penalties and correction of deficiencies.

- (a) Any person who violates any provisions of this article shall be guilty of a misdemeanor in accordance with chapter 6 of the code of ordinances and upon conviction shall be subject to a fine not to exceed the amount specified by state law for such offenses. Each day of such violation shall constitute a separate offense. Said penalty is cumulative, and not exclusive, of any other rights or remedies said city may have.
- (b) Any person who shall perform work on or about a public right-of-way and who shall violate any provision of this article or fail to comply with the barricade plan made a part of such permit shall cause said work to be subject to a cease work order and/or revocation of permit or civil legal remedies as provided by this article.
- (c) Utility owner and the permittee are responsible to ensure that all utility construction work performed on its behalf is done in accordance with all requirements of this article and in conformance with all city code, and correction is made to any deficiencies identified by the city. All utility owners and/or their agent(s) are required to document all phases of work, including pre- and post-construction, with photographs from a construction inspector hired on behalf of the utility owner to oversee all excavation(s) within the public right-of-way and dedicated city easements.

(Ordinance 565 adopted 4/5/21)

§ 15.08.003

§ 15.08.003

§ 15.08.003. through § 15.08.030. (Reserved)

DIVISION 2
Permits; Registration

§ 15.08.031. Permit required.

- (a) It shall be unlawful for any person, partnership, corporation, utility, ROW user or other business entity to engage in utility construction activities of any nature that will encroach upon or be located in, on or within a street, alley or other public right-of-way or other public property within the city without having first obtained a “construction permit” from the city engineer to perform the work unless said work is commenced in an emergency situation as authorized by this article.
- (b) A permit shall be required for utility installations in the streets and alleys of new subdivisions that have been accepted by the city or that are in the process of being accepted by the city through the platting procedures for new subdivisions as described by chapter 10 of this code. This permit does not grant access rights to private property. Any access needed by the permit holder to private property will require permission and/or coordination of any construction activities with the developer or property owner. In the event of a joint trench for multiple utilities, the contractor excavating the trench will be responsible for securing the permit.
- (c) However, no permit shall be required for the installation and connections necessary to initiate service to a customer’s property or routine repair and maintenance of existing facilities that will interfere with traffic for less than one hour or excavate less than sixteen (16) inches in depth, unless such activity requires the breaking of pavement, boring, or excavating with equipment greater than hand tools or a vibrating plow designed to install lines up to a three-inch diameter.
- (d) Failure to provide any of the required information listed on the permit application will result in denial of the permit.
- (e) The city engineer also may issue an annual “general permit” for routine maintenance or repair of existing and new facilities or service line utility work in the right-of-way for excavations that exceed sixteen (16) inches in depth or work that interferes with traffic for more than one (1) hour or an activity that requires breaking the pavement or boring. Notification of routine work shall be given to the city on a daily, weekly or such other schedule as may be prescribed by the city engineer.
- (f) A permit issued under this section grants access to the city’s public right-of-way only on business days between the hours of 7:00 a.m. to 5:00 p.m. The utility owner and/or their contractor shall notify the city emergency on call number as directed at 806-855-4120 to report any emergency situations that will require work to be performed beyond 5:00 p.m. or any time on the weekend or holidays.

(Ordinance 565 adopted 4/5/21)

§ 15.08.032. Backfilling, compaction, etc.

All backfilling, compaction, pavement restoration, barricading and other traffic-control measures for work within the public right-of-way, and other city-owned properties, shall

strictly comply with the requirements of this article.
(Ordinance 565 adopted 4/5/21)

§ 15.08.033. Notice.

Notice for purposes of this article shall be made to city and emergency service providers via electronic message (e-mail), overnight courier (generally used carrier with tracing available), or hand delivery with signed receipt or facsimile to the city department or emergency service provider.

(Ordinance 565 adopted 4/5/21)

§ 15.08.034. Registration required.

- (a) All ROW users and other persons obtaining a permit under section 15.08.031 must first register with the city and supply contact information and other requested information before they will be issued an initial permit.
- (b) Registration information must be renewed annually thereafter. All ROW users or other registered persons shall report any changes in its registration information within thirty (30) days of such change. No ROW user or other person shall be authorized to engage in any utility construction activities without first registering and obtaining the applicable permit for the work from the city.

(Ordinance 565 adopted 4/5/21)

§ 15.08.035. Registration information.

The information required for registration includes the following:

- (1) Identity and legal status of ROW user and names of all operators of any facilities on or in the right-of-way;
- (2) Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration information;
- (3) Name, address, telephone number, fax number and email address of the local representative of the right-of-way user who shall be available at all times to act on behalf of the ROW user in the event of an emergency;
- (4) If applicable, certification number issued by the public utility commission;
- (5) General description of services to be provided; and
- (6) Liability insurance information.

(Ordinance 565 adopted 4/5/21)

§ 15.08.036. Permit application.

- (a) Applications for a construction permit that will affect public right-of-way shall be made on forms provided by the city and such applications shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

- (1) That construction will be in accordance with all applicable codes, rules and regulations.
 - (2) The location of all aboveground facilities to be installed, including poles.
 - (3) The location, depth and other characteristics of all facilities to be installed under the surface of the ground, including lines which are within the public right-of-way.
 - (4) The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are known by the applicant at the time of application to be within the right-of-way along the underground route proposed by the applicant.
- (b) The city engineer or his or her designee may, in his or her discretion, require additional information to determine whether:
- (1) The construction methods to be employed will adequately protect existing structures, fixtures, facilities within or adjacent to the public rights-of-way.
 - (2) A landscape plan for protecting or restoring any areas to be disturbed during construction is necessary.
- (c) All permit applications shall be accompanied by a certification that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.
- (d) Should a contractor be engaged by a franchised utility, utility or certificated telecommunications company authorized to perform work in the city's public right-of-way, the contractor's registration information shall include information applicable to both the franchised utility, utility or telecommunications company and the contractor if the employer is not already registered with the city. The permit will be issued to the person, contractor or legal entity actually performing the work in the right-of-way.
- (Ordinance 565 adopted 4/5/21)

§ 15.08.037. Insurance.

- (a) The applicant for permit shall furnish a certificate of insurance evidencing general liability provided by an insurance company that carries an AM Best Rating A or better. The company, or companies, must be authorized to do business in this state, or evidence of self-insurance satisfactory to the city evidencing that the city is adequately protected from any liability or damages resulting by virtue of applicant's construction. The certificate of insurance shall be filed with each application for a permit. The general liability required herein shall have a minimum limit of one million dollars (\$1,000,000.00) per occurrence limit with a two million (\$2,000,000.00) general aggregate limit. The general liability will also extend additional insured status to the city.
- (b) By acceptance of a permit, the applicant agrees to indemnify and hold harmless the

city, its officers, agents, servants, and employees from any and all claims, damages, suits, attorneys' fees, causes of action, and judgments which may result in any manner from the construction or laying of any improvements upon any public street, alley, or right-of-way in the city.

- (c) By acceptance of a permit, the applicant agrees to, during the period of construction and prior to the acceptance of such improvements by the city, maintain such public street, alley, or right-of-way in a safe condition and issue all necessary instructions and take all precautions as may be reasonably required to maintain such public streets or alleys in a safe condition for all public use.
- (d) Permits for utility work performed by city crews within the public right-of-way or on public property shall not require insurance.
(Ordinance 565 adopted 4/5/21)

§ 15.08.038. Issuance.

- (a) The city engineer shall issue a permit under this section within five (5) business days of the submittal of the application when the following conditions are met:
 - (1) The plans for the proposed construction are in conformity with the standards and specifications of the city for such work, and the applicant has paid such fees required by section 15.08.036.
 - (2) The applicant has submitted a duly executed application, containing all of the information and data called for by section 15.08.036, including the proposal by the applicant, as part of such application, to indemnify the city against all loss, damages and liability as provided in subsection (b) of section 15.08.037, and to maintain the streets or alleys in safe condition and to issue instructions and take the precautions for public safety as provided in subsection (c) of section 15.08.037.
 - (3) That the certificates of public liability and property damage insurance have been furnished to the city engineer for permits issued under section 15.08.031 all in accordance with the provisions of section 15.08.037.
 - (4) The operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means and access to and from the property affected and adjacent properties.
 - (5) That the health, welfare, and safety of the public will not be unreasonably impaired.
- (b) The city engineer may require more time than five (5) days to issue the permit for major utility projects in the ROW. A major project is installation or replacement of a utility facility greater than one (1) mile in length. Meetings to review the project may be required between the permit applicant and the city engineer or his or her designee for major projects.
(Ordinance 565 adopted 4/5/21)

§ 15.08.039. Construction schedule.

The permit holder shall submit a written construction schedule if required by the permit to the city engineer or his or her designee five (5) business days before commencing any work in or about the public rights-of-way.

(Ordinance 565 adopted 4/5/21)

§ 15.08.040. Notice to affected property owners and emergency responders.

- (a) The permit holder shall notify property owners of intended work if the work may impact the owner's ability to access their property, or impact their normal daily activities, such as accessing their solid waste dumpster to dispose of household trash.
- (b) The permit holder shall place door hangers on the front door of businesses and residences adjacent to the affected route that shall include: the name of the franchise utility for which the work is being performed, the type of work, expected work schedule, and a name and contact information, including daytime and emergency contact names and numbers, for both the permit holder and the franchise utility. Such notification shall be done at least five (5) business days prior to commencing the permitted work and record of such notifications shall be retained by the permit holder.
- (c) Should damage occur to abutting private property, or damage occur to utility service to the private property, the permit holder will contact the property owner immediately and coordinate the repairs to the property or service with the owner.
- (d) The permit holder shall contact emergency response agencies, such as police, fire and ambulance service prior to commencement of any work that may impact access to a street or alley. Emergency response agencies shall be notified by the permit holder if a residential or commercial street is to be closed for any length of time, or one lane or more of a collector or thoroughfare street is to be closed for any length of time, or if an alley is to be blocked for more than 48 hours. Service agencies that may be impacted, such as solid waste collection, shall be contacted, and alternate service coordinated, prior to the beginning of work that may impact these services.
- (e) Damaged main lines will be repaired by the city. The city will issue a claim to the utility owner, contractor, or their insurance company for cost reimbursement.
- (f) If solid waste dumpsters have to be relocated in the alleys due to construction activates the utility owner and/or contractor shall notify the affected customers and the city sanitation department at 806-855-4120. The notice shall specify the address, number of the dumpster being relocated, and the duration of service interruption.

(Ordinance 565 adopted 4/5/21)

§ 15.08.041. Compliance with permit.

All construction activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city engineer and his or her representatives shall be provided access to the work and such further information as he or she may require to ensure compliance with such requirements.

(Ordinance 565 adopted 4/5/21)

§ 15.08.042. Display of permit and signage.

- (a) The permit holder shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the city engineer or his or her representatives at all times when construction work is occurring.
- (b) All permitted utility owner and contractor vehicles and equipment must be clearly marked with the company name while performing construction or other work. Signage, with minimum dimensions of 4 feet by 4 feet, with the utility's name and contact phone number must be displayed at the beginning and the end of the traffic-control work zone on the thoroughfare.

(Ordinance 565 adopted 4/5/21)

§ 15.08.043. Survey of underground facilities.

If the construction permit specifies the location of new facilities by depth, line, grade, proximity to other facilities or other standard, the city engineer or his or her designee may require the permit holder to provide written verification, if reasonably necessary, of the location of such facilities by a registered surveyor. If requested by the city engineer or his or her designee, the permit holder shall relocate any facilities that are not located in compliance with permit requirements.

(Ordinance 565 adopted 4/5/21)

§ 15.08.044. Noncomplying work.

Upon order of the city engineer or his or her designee, all work that does not comply with the permit, the approved plans and specifications for the work, or the requirements of this article, shall be removed.

(Ordinance 565 adopted 4/5/21)

§ 15.08.045. Completion of construction.

The permit holder shall promptly complete all construction activities so as to minimize disruption of the public rights-of-way and other public and private property. All construction work authorized by a permit within the public rights-of-way, including restoration, must be completed within one hundred twenty (120) calendar days of issuance, or by such other date as may be agreed upon by the city engineer and his or her designee.

(Ordinance 565 adopted 4/5/21)

§ 15.08.046. Utility construction as-built drawings.

Within sixty (60) calendar days after completion of construction, the permit holder shall furnish the city engineer with a complete set of plans, certifying to the city that they accurately depict the location of all utility facilities constructed pursuant to the permit.

(Ordinance 565 adopted 4/5/21)

§ 15.08.047. Restoration of right-of-way improvements.

- (a) Upon completion of any construction work, the permit holder shall promptly repair or restore any and all public street rights-of-way, including any and all public and private fixtures, structures and facilities lawfully located therein, to as good as or better a condition as before the start of construction. Unpaved portions of alley rights-of-way shall be leveled, filled, bladed and worked in such a manner as to leave the alley in a safe and usable condition. Complete preconstruction photographs or videos of the work site are required of all permit holders and shall be submitted to the city engineer upon request.
- (b) Persons placing physical obstructions such as landscaping objects, irrigation systems and fences within the right-of-way without legal authorization shall bear the risk of damage to such obstructions due to utility construction work. The repair or replacement of such unauthorized physical obstructions unavoidably damaged by utility construction work shall be the sole responsibility of the adjacent property owner or other person placing such unauthorized physical obstruction in the right-of-way.

(Ordinance 565 adopted 4/5/21)

§ 15.08.048. Restoration of trees, shrubs and other vegetation.

- (a) All landscaping trees, shrubs and other vegetation damaged or disturbed within the street right-of-way as a result of the construction, installation, maintenance, repair or replacement of utility facilities in the street right-of-way shall be replaced or restored as nearly as may be practicable, to at least as good a condition as prior to performance of work by the permit holder. Trees may be replaced with trees of similar size and the same or similar species up to four (4) inches in caliper. Trees larger than four (4) inches in caliper shall be replaced with trees of the same or similar species with a caliper of no less than three (3) inches and no more than four (4) inches.
- (b) All restoration work within the public rights-of-way shall be done in accordance with landscape plans approved by the city engineer or his or her designee, if such landscape plan is required by section 15.08.036(b)(2) of this article.
- (c) Pruning or trimming of trees or shrubs by the city, a ROW user or a utility deemed necessary due to any imminent threat to public safety or that may potentially damage overhead utility lines does not require a permit under this article.

(Ordinance 565 adopted 4/5/21)

§ 15.08.049. Responsibility of permit holder or ROW user.

The permit holder, ROW user or a contractor hired by the permit holder or ROW user shall be responsible for performance of and compliance with all provisions of this article.

(Ordinance 565 adopted 4/5/21)

§ 15.08.050. Conformance with master thoroughfare plan.

A permit holder or ROW user shall consult the city's master thoroughfare plan ("MTP")

prior to the acquisition of any interest in real property in the city for the installation or relocation of utility service lines or other utility equipment or facilities along or adjacent to any street, right-of-way, thoroughfare, highway, or any proposed street, right-of-way, highway or thoroughfare to attempt to minimize any future conflict regarding the location of such facilities. All permit holders or ROW users are charged at all times with constructive notice of the MTP. The city shall have no liability for the value of or loss by a permit holder or ROW user for any improvements constructed in the area shown in the MTP subsequent to the effective date of this article. All permit holders and ROW users placing utility equipment or facilities that conflict with the MTP at the time of permit issuance shall be responsible for moving such equipment or facilities without cost to the city.

(Ordinance 565 adopted 4/5/21)

§ 15.08.051. Rights of utility in event of closure or abandonment of right-of-way.

In the event the city closes, vacates, abandons or conveys any right-of-way containing facilities of a ROW user, any such closure, vacation, abandonment or conveyance of land shall be subject to the rights of the ROW user.

(Ordinance 565 adopted 4/5/21)

§ 15.08.052. Denial of permit.

A permit may be denied for any of the following reasons:

- (1) Failure to provide proof of liability insurance acceptable to the city.
- (2) Failure to secure any required permit for work of the nature required.
- (3) Failure to perform in accordance with the requirements of these provisions and to correct any deficiencies after notice.
- (4) The excavation would be in a new street and not otherwise permitted by this article.
- (5) The proposed warning or other traffic-control procedures or equipment do not comply with the requirements of the TMUTCD or the requirements of the city engineer.
- (6) The proposed activity would violate a city ordinance or state or federal statute.
- (7) The permit application contains false or misleading information.
- (8) The activity would cause a public health or safety hazard.
- (9) The ROW user is not authorized to do business within the city.
- (10) The ROW user is in violation of this article relative to work in progress.

(Ordinance 565 adopted 4/5/21)

§ 15.08.053. Revocation or suspension of permit.

- (a) The city reserves its right, as provided herein, to revoke or suspend any permits of the

utility owner and/or contractor, without refund of the permit fee, in the event of a breach by the permit holder of the terms and/or conditions of the permit or of this chapter or any city ordinance. A breach of the terms of the permit shall include, but not be limited to, the following:

- (1) The violation of any provision of this article;
 - (2) An evasion or attempt to evade any provision of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
 - (3) Any material misrepresentation of any fact in the permit application;
 - (4) The failure to meet insurance or indemnification requirements;
 - (5) The failure to complete the work in a timely manner;
 - (6) The failure to correct a condition indicated on an order issued pursuant to this article;
 - (7) Repeated offenses, including but not limited to, traffic-control violations;
 - (8) Failure to repair facilities damaged in the right-of-way; or
 - (9) Violation of any provision of this article.
- (b) If the city engineer, or his or her designee, determines that the permit holder has committed a breach of any law or condition of the right-of-way construction permit, the city engineer shall first make a written demand upon the permit holder to remedy such violation. The city engineer may provide specifications to cure the breach. Continued violation may be cause for suspension or revocation of the permit, civil legal action, or both. The city engineer may suspend the permit upon failure to correct the breach. Within five (5) business days of receiving notification of the breach, the permit holder shall contact the city engineer with a plan, acceptable to the city engineer, for correction of the breach. The permit holder's failure to provide a plan or the permit holder's failure to implement the approved plan within the time stated in the written demand for remedy shall be cause for revocation of the permit.
- (c) The city engineer, or his or her designee, may immediately suspend the work and issue an immediate stop-work order for all current permits issued if there is major damage to another utility caused by the utility owner or its contractor on or about a public right-of-way and/or there is an imminent and immediate threat to the health, safety and welfare of the public in his or her opinion. In the event the stop-work order is not obeyed, the failure to immediately stop work shall be deemed a criminal violation of this article and the permit may be revoked. In addition, civil legal action for trespass, injunction and damages may result.
- (d) Utility permits may be denied or a stop-work order issued to the utility owner for failure to relocate its utilities within six months of notification from the city in order for the city to complete its capital improvement projects.
- (Ordinance 565 adopted 4/5/21)

§ 15.08.054. Appeal of permit denial or revocation.

A ROW user or other applicant that has been denied a permit or a permit holder that has had a permit revoked may appeal the denial or revocation upon written request as follows:

- (1) Appellant shall provide, within five (5) business days of denial or revocation, a written notice of appeal filed with the city engineer. The notice must state the alternatives available and routes explored, hardship encountered, cost comparison of other alternatives and a statement of any other significant factors. The city engineer shall provide a written decision within five (5) business days of receipt of the appeal. Failure to render a decision within five (5) business days shall constitute a denial.
- (2) If a further denial is given or the revocation upheld, the appellant may thereafter file a written notice of appeal with the city council within five (5) business days. The notice must state the alternatives available and routes explored, hardship encountered, cost comparison of other alternatives and a statement of any other significant factors. The city council shall provide a written decision at the next available council meeting.
(Ordinance 565 adopted 4/5/21)

§ 15.08.055. Utility emergency excavations.

- (a) Nothing in this article shall be construed to prevent any person, utility, permit holder or ROW user from maintaining any pipe, conduit, or duct in or under any street, or right-of-way by virtue of any law, ordinance or permit, from making an emergency excavation as may be necessary for compliance with law or in response to a situation endangering life, health and safety, or property, or in a situation in which the public need to reestablish interrupted service compels immediate action. The excavator is required to notify the city engineer, with submittal of the permit application information, the next business day following an emergency excavation within the public right-of-way. Except as specifically provided otherwise in this section, excavations authorized by this section shall be subject to all requirements of this article.
- (b) If a permit holder in the course of an excavation cuts or damages another ROW user's facilities, the damaged ROW user may perform the work necessary to repair their facility without obtaining a permit. The original permit holder for the excavation is the responsible party for ensuring that the backfilling and paving repairs meet the requirements of this article.

(Ordinance 565 adopted 4/5/21)

§ 15.08.056. Reporting.

When the work under any permit hereunder is completed, the permit holder shall contact the city's city engineer at 806-855-4120 and furnish the city engineer a completion certificate.

(Ordinance 565 adopted 4/5/21)

§ 15.08.057. Work done without permit.

No cut, excavation, grading or disturbing of the right-of-way in any way shall be made other than excavations necessary for emergency work without first securing a permit. No permit holder, utility or ROW user shall at any time open or encumber more of the right-of-way than shall be reasonably necessary to complete a project in the most expeditious manner.

(Ordinance 565 adopted 4/5/21)

§ 15.08.058. through § 15.08.090. (Reserved)

DIVISION 3
Standards for Excavation, Backfill and Paving Repairs

§ 15.08.091. Excavation under supervision of city engineer.

- (a) Any permit holder, utility or ROW user engaged in making or backfilling any excavation in any right-of-way shall at all times while such work is in progress keep at the job location the permit, or a copy thereof, and shall, on demand, exhibit the permit to the city engineer or his or her designee. At all times while the work is in progress the permit holder, utility or ROW user shall also maintain at the job location, a sign, barricade, or other device bearing the permit holder's, utility's or ROW user's name.
- (b) All excavations and other construction in the rights-of-way, streets and alleys shall be conducted so as to interfere as little as practicable with the use of rights-of-way and with the use of private property, in accordance with any lawful and reasonable direction given by or under the authority of the governing body of the city under the policy and regulatory powers of the city necessary to provide for public convenience. The permit holder, utility or ROW user shall reasonably protect and prevent any damage to utility facilities, sewer facilities, water facilities, lawns, shrubbery, trees, fences, structures, or other property encountered in his work. The permit holder, utility or ROW user shall not trespass upon private property. The permit holders, utilities or ROW users shall determine the boundary between public right-of-way and private property.
- (c) All transmission and distribution structures, lines, equipment and facilities erected by a permit holder, utility or ROW user within the city shall be so located as to cause minimum interference with the proper use of the public rights-of-way, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets.
- (d) The city reserves the right to lay, and allow to be laid, electricity, sewer, gas, water and other pipelines or cables and facilities, as well as drainage pipes and channels and streets and to perform, and allow to be performed, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the city, in, across, along, over or under any right-of-way or public place occupied by a utility or ROW user and to change any curb or sidewalk or the grade of any street and to maintain all of the city's facilities. In allowing such work to be performed by others, the city shall not be liable to a utility or ROW user for any damage caused by those persons or entities. Nothing herein shall relieve any third party from responsibility for damages caused to a permit holder, utility or ROW user by such third party.
- (e) If the city requires a utility, permit holder or ROW user to adapt or conform its facilities, or in any way or manner to alter, relocate or change its property to enable any other corporation or person, except the city, to use, or to use with greater convenience, any right-of-way or public place, the utility or ROW user shall not be required to make any such changes until such other corporation or person shall have

undertaken, with solvent bond or cash payment, to reimburse a utility or ROW user for any loss and expense which will be caused by or arise out of such removal, change, adaptation, alteration, conformance or relocation of a utility or ROW user's facilities; provided, however, that the city shall never be liable for such reimbursement.

- (f) Any utility owner and/or their contractor performing construction in any city right-of-way will maintain a representative at the site at all times while such work is in progress, and who shall be able to clearly communicate with the city staff and the citizens of the city.
- (g) In dedicated easements, only the dedicated utility shall be allowed into such easements, unless the land owner and city engineer grant written approval.
- (h) Utility construction in city-dedicated easements shall require a ROW utility construction permit.
- (i) All excavation work shall be performed during business hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, unless written approval is granted by the city engineer, or in the case of an emergency. Installations by boring will not be allowed after 2:00 p.m. on Fridays.

(Ordinance 565 adopted 4/5/21)

§ 15.08.092. Field utility coordination.

- (a) The permit holder, utility or ROW user shall notify the engineering department at each of the following times during a project:
 - (1) Two (2) business days before the start of construction;
 - (2) Two (2) hours before beginning the initial backfill;
 - (3) Two (2) hours before beginning the paving of the street or alley;
 - (4) Twenty-four (24) hours prior to commencement of any boring activities;
 - (5) Upon completion of the project.
- (b) The permit holder, utility or ROW user shall mark the site of the proposed excavation with white lining and/or flags prior to making a request for locates and actual excavation.
- (c) The permit holder, utility or ROW user shall make a request for a utility locate not more than 14 days and not less than 48 hours prior to the commencement of the proposed excavation. Such request shall be made to the state one-call center. Such requests shall be made by telephone or facsimile and shall include the date, location, extent and reason for such proposed excavation.
- (d) The use of markers, stakes, poles, barricades or other devices shall be used in such a way to avoid damage to adjoining property. The use of "nonpermanent" or "biodegradable" markers is required.

- (e) The permit holder, utility or ROW user shall mark the proposed excavation site with paint and/or flags in colors established by the one-call system. The markings shall be placed a distance of not less than five (5) feet in all directions from the outside boundary of the site to be excavated.
- (f) All excavations shall commence within 14 days of the date of the utility locate. In the event that the excavator fails to commence work within 14 days or the utility locate marks are not visible at the time the excavation is scheduled to commence, the permit holder, utility or ROW user is required to request a new utility locate.
- (g) Compliance with the Texas Utilities Code is required at all times.
- (h) All barricades, plates, cones, traffic directional equipment, and all other traffic-control devices owned by the permit holder, utility or ROW user and used on or near any excavation shall be clearly and visibly marked with the name of the permit holder, utility or ROW user, as applicable, at all times such equipment is used on or near the right-of-way. An exception to the marking requirement may be made in the event the traffic-control equipment is not owned by the permit holder, utility or ROW user.
- (i) If work is being performed that will block any lanes of traffic in a street or deny access to an alley or driveway and the work site will be left unattended, the permit holder, utility or ROW user shall place a sign at each end of the work site with the name and contact information of the permit holder, utility or ROW user performing the work. Such signs may be placed on barricades or freestanding.
- (j) The permit holder shall prominently display the utility owner's and contractor's names and phone numbers on a sign, having minimum dimensions of 4 ft. by 4 ft., at the beginning and ending of the traffic-control work zone.
- (k) All open pits shall be backfilled within three (3) calendar days or covered with materials of sufficient strength and construction (H 20 load rated steel plate(s)) to permit vehicular traffic to pass over such excavation(s).
- (l) All existing water and sewer mains shall be physically located prior to boring by way of potholing with a hydro excavation method.
(Ordinance 565 adopted 4/5/21)

§ 15.08.093. Excavation details; backfill; compaction; pavement restoration.

Paving shall be repaired in accordance with the "Lubbock Minimum Design Standards and Specifications" as appended by the city in appendix C of this same code.

(Ordinance 565 adopted 4/5/21)

§ 15.08.094. Standard location of utilities in alleys.

The standard location for municipally owned utilities, public utilities, and telecommunications are shown in the "Lubbock Minimum Design Standards and Specifications" as appended by the city in appendix C of this same code.

(Ordinance 565 adopted 4/5/21)

§ 15.08.095. Supervision by city of location of poles and conduits.

- (a) All poles in the right-of-way shall be of sound material and straight, and all other utility facilities, either along the ground surface or above ground, such as manholes, valve boxes, vault covers, risers, boxes, etc., shall not interfere with the flow of water in any gutter or drain, and shall be placed so as not to unduly interfere with either vehicular or pedestrian travel.
- (b) Any aboveground utility facility shall be placed in a manner that will be compliant with the Americans with Disabilities Act (ADA) in order to maintain the required clear width for pedestrians with disabilities. Should a utility facility encroach into an existing sidewalk, additional sidewalk construction shall be required if necessary to maintain clear width for an ADA accessible route. Aboveground facilities shall also be located so they will not violate the city's right-of-way visibility requirements.
- (c) The location and route of all conduits, fiber, cables, utilities and facilities placed and constructed within the city's rights-of-way by a utility, permit holder or ROW user in the construction and maintenance of its system within the city shall be subject to the reasonable and proper control, direction and approval of the city.

(Ordinance 565 adopted 4/5/21)

§ 15.08.096. Backfill of excavated area.

- (a) Open trenches may be temporarily backfilled for the convenience of the permit holder or the public safety. At least two (2) hours prior to beginning permanent backfill operations, the permit holder shall notify the city engineer of the time the backfill will begin.
- (b) All excess water and mud shall be removed from the trench prior to backfilling. Any backfill placed during a rainy period or at any other times, where water cannot be prevented from entering the trench, will be considered temporary and shall be removed as soon as weather permits. All disturbed base material or any base that has been undermined shall be removed and discarded.

(Ordinance 565 adopted 4/5/21)

§ 15.08.097. Restoration of pavement.

- (a) Unless otherwise specified in the permit, restoration of the asphalt pavement of any street, alley, right-of-way or other public place shall be performed by the permit holder.
- (b) No trench shall be opened in any street for the purpose of laying pipes, conduits or ducts more than four hundred (400) feet in advance of the pipe, conduit or ducts being placed in the trench, other than with the prior written consent of the city engineer.
- (c) All excavations shall comply with the standards and requirements established from time-to-time by the city engineer for compaction, backfill and pavement restoration.
- (d) Any excavated pavement, debris and other rubble shall be removed, together with any surplus material, during the same business day from the time such material is placed

upon the street. After backfilling is completed, and prior to repaving the cut, the permit holder, utility or ROW user shall remove all loose paving material and saw cut the edges of the excavation at the street surface to the satisfaction of the city engineer.

- (e) Whenever any caving occurs in the sidewalls of any excavation, the pavements above such caving shall be cut away, trench backfilled and pavement restored. In no case shall any side or lateral tamping fill any void under a pavement.
- (f) All materials and construction practices shall be in conformance with Lubbock Minimum Design Standards and Specifications as amended by the city.
- (g) Any paving failures, including surface, base, or subgrade failures that occurred due to the ROW user's work in the street shall be repaired by the ROW user, regardless of whether the damage is caused by equipment, construction methods, detour of traffic or any other reason.

(Ordinance 565 adopted 4/5/21)

§ 15.08.098. Cleanup of right-of-way.

- (a) In every case and at all times, the work of removing from the right-of-way all obstructions, surplus materials, debris and waste matter of every description caused by and accumulated from the excavation shall be the responsibility of the permit holder, utility or ROW user. Streets shall be cleaned by use of a street sweeper or other acceptable means. The permit holder, utility or ROW user shall clean the surrounding area, as outlined above, within one (1) business day upon completion and approval of all trench work and pavement restoration unless the city engineer, sufficient reason therefore having been given to his satisfaction, grants an extension of time.
- (b) Phasing of construction clean-up must be done in a manner to completely clean the alleyway prior to moving into the next alleyway. Any hand holes left open to pull cable after clean-up must be covered to protect the public.

(Ordinance 565 adopted 4/5/21)

§ 15.08.099. Substandard repair of pavement or right-of-way due to utility work.

In case the pavement or the surface of the street, alley, or right-of-way in, over or near any excavation should become depressed, cracked, or broken any time or fails in any way at any time after the excavation has been made and during the remaining life of the street, the permit holder, utility or ROW user who performed the excavation shall be required to repair such defective work commencing within fifteen (15) business days after receipt of notification from the city to bring the work into compliance with applicable obligations of this article. Failure to complete the repair within a reasonable time after notification may result in the permit holder, utility or ROW user being required to reimburse the city for the cost to restore the street, right-of-way or alley. "Life of the street" is defined as until such time as the street is reconstructed or the PCI (pavement condition index) of the street has a value of less than 50.

(Ordinance 565 adopted 4/5/21)

§ 15.08.100. Inspection.

The permit holder, utility or ROW user shall make the work site accessible to the city, and others as authorized by law, for inspection at all reasonable times during performance of the work.

(Ordinance 565 adopted 4/5/21)

§ 15.08.101. Materials testing.

The city engineer or his or her designee may require testing of materials used in construction in or near the right-of-way to determine conformance to required specifications, including, but not limited to, compaction tests on backfill materials, subgrade, concrete, asphaltic concrete and other construction materials as may be deemed necessary.

(Ordinance 565 adopted 4/5/21)

§ 15.08.102. Utility excavation in ROW restored to good condition.

- (a) The permit holder, utility or ROW user shall complete pavement restoration of the excavated area within thirty (30) days on thoroughfare streets, collector streets, industrial streets, residential streets and alleys after final backfill is completed and accepted by the city engineer. The permit holder, utility or ROW user shall conduct the work with a minimum disturbance to existing utilities and shall coordinate all work in or near the existing utilities with the utility owners.
- (b) Excavation in new streets. There shall be no excavation in new streets (less than five years of age) without the prior approval of the city engineer. Any request for a permit to excavate a new street shall include a description of the proposed work and proposed restoration of the area, as well as a statement as to why alternate procedures cannot or should not be used in lieu of excavating a new street. However, prior approval will not be required for excavations of up to fifty (50) linear feet for utility tie-ins needed from an existing subdivision to a new subdivision during development.
- (c) Excavation of streets in good condition. A permit holder, utility or ROW user shall perform jacking and boring operations in a manner that does not weaken or impair the right-of-way upon completion of restoration of the excavation.
 - (1) Excavation in all streets in good condition regardless of age shall not occur without a permit and prior approval of the city engineer. Streets assigned to a PCI (pavement condition index) of 92 or above by the pavement management system are deemed to be in good condition and are subject to the same review procedures as excavation of new streets. The PCI can be obtained from the city engineer.
 - (2) Restoration of the excavated area of streets in good condition shall be in accordance with this article.
 - (3) If excavation of an asphalt street in good condition is approved, and 25% or more of the asphalt street surface (50% or more of a designated thoroughfare

street) is disturbed, a complete block to block, curb to curb pavement repair, including removal and replacement of the complete pavement surface, will be required. An alternative surface treatment may be submitted for consideration by the city engineer.

- (d) Excavation in portland cement concrete (PCC) pavement surface. If the existing pavement is PCC, the concrete shall be cut first with a saw to a minimum depth of half the thickness of the concrete which shall also cut the reinforcing steel. The concrete can then be broken out with an air chisel or pavement breaker. No more than 6" of PCC shall be broken back beneath the saw cut.
- (e) Responsibility for excavated area maintenance. A permit holder, utility or ROW user shall maintain their repairs in the right-of-way for the life of the street as defined in this article.

(Ordinance 565 adopted 4/5/21)

§ 15.08.103. through § 15.08.130. (Reserved)

DIVISION 4
Barricades

§ 15.08.131. Submission of plan.

- (a) After the issuance of a right-of-way construction permit, or any other permit involving the placement of barricades, the contractor, subcontractor, corporation, firm, company, utility, permit holder, ROW user or other person who shall undertake to perform any work upon, in, under, above, or about any street, alley, curb, gutter, sidewalk, or any public right-of-way or for any other reason desires to place barricades on right-of-way within the city, shall furnish the city engineer with a scale “barricade plan” or sketch showing the work area, the space within the right-of-way required for the work, and a proposed plan, referred to in this section as a “barricade plan” for the use of barricades, signals, signs, flags, flares, and other traffic-control and safety devices about the work area.
- (b) The barricade plan shall conform to the requirements set forth in the barricade manual adopted below, and such plan shall be deemed a part of said permit.
- (c) This section shall not apply to the utility companies or the city when either are engaged in work involving overhead signals, communications, and/or electric circuits; provided that said utility companies or city shall establish and maintain adequate warning devices when engaging in work involving overhead signals, communications, and/or electric circuits.

(Ordinance 565 adopted 4/5/21)

§ 15.08.132. Adoption of manual.

The “Texas Manual on Uniform Traffic-Control Devices for Streets and Highways,” as prepared by the Texas Department of Transportation (TXDOT), and all later revisions thereto, shall be the official barricade manual for the city.

(Ordinance 565 adopted 4/5/21)

§ 15.08.133. Additional requirements.

- (a) The city may require that the work be done only at certain hours during the day or night, that materials or equipment used in such work and dirt and materials removed from any excavation be located other than adjacent to the work area where feasible, and that any excavation be covered with materials of sufficient strength and construction to permit vehicular traffic to pass over such excavation at peak traffic hours, where such requirement shall be deemed necessary in the interest of safety and to avoid traffic congestion.
- (b) Traffic control shall be placed on site no more than twenty-four (24) hours prior to construction beginning. Traffic control will be taken down, and the street reopened, if permit holder is not onsite for two business days. Traffic-control devices shall only be placed around the current construction area, and not around the entire project.

(Ordinance 565 adopted 4/5/21)

§ 15.08.134. Continuing validity of permit.

Prior to or upon institution of or during the proceeding of or prior to completion of any work for which a permit is required hereunder, as an express condition precedent to the continuing validity of said permit, all specifications of the barricade plan and all regulations set forth in the barricade manual in connection therewith including, but not restricted to, proper maintenance of barricades, signals, signs or other traffic-control or safety devices, must be complied with, carried out and conformed to in their entirety. Failure to do so will render said permit null and void and of no further force or effect as if no permit had ever been issued or granted.

(Ordinance 565 adopted 4/5/21)