

ARTICLE IV. EXCAVATIONSRIGHT-OF-WAY WORK¹

DIVISION 1. GENERALLY

Sec. 90-91. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person who seeks a permit for work within the right-of-way.

Backfill means excavation fill material meeting city specified quality requirements of the placement thereof.

Contractor means any person or group of persons entering into an agreement with the city via an approved permit issued under the provisions of this article.

Detour means an alternate route in which vehicular traffic is directed around a street which is closed.

Emergency means an unforeseen combination of circumstances or the resulting state that endangers health, life or property and calls for immediate action.

Excavation means an activity that cuts, penetrates, or bores under any portion of the public right-of-way with a paved surface for street, sidewalk, surface drainage, related public transportation infrastructure purposes, or area of public right-of-way intended for public or municipal use. The term includes but is not limited to cutting, tunneling, jacking and boring, backfilling, restoring, and repairing the public right-of-way. The term does not include a transportation improvement or excavations that are undertaken for the improvement or maintenance of municipal utility systems, such as electric, water and wastewater lines and facilities, utility maintenance or other activities that are performed within already existing structures, vaults, conduits, or cable ways that are located underneath street improvements, provided that any access required for the work is obtained through manholes, or other previously constructed entrances that may be utilized without cutting or penetrating any pavement or other street improvement.

Facility means any structure, device, or other thing whatsoever that may be installed or maintained in, on, within, under, over, or above a public right-of-way.

Manual means the latest version of the Texas Manual on Uniform Traffic Control Devices Barricading Standards.

Owner means a person, including the city, who holds title to or will hold title to any facility that is installed or is proposed to be installed or maintained in the public right-of-way.

Pavement condition index (PCI) means the city-assigned general condition of the pavement section.

Permit means a written letter of approval from the manager of public works and director of utilities or appointed representative current and valid authorization issued under the provisions of this article.

Public right-of-way means any public street, highway, roadway, alley, or sidewalk.

¹Cross reference(s)—Excavation in parks and recreation areas, § 74-63.

Responsible person means the ~~manager of public works~~city engineer, the city engineer's designee, and director of utilities or any other city manager appointed representative.

Shall, should and may. The term "shall" is a mandatory condition, the term "should" is an advisory condition to ensure safe operation conditions and the term "may" is a permissive condition.

Streets and alleys. The term "street" means a traveled way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

- (1) *Major thoroughfares or arterial streets* are principal traffic arteries more or less continuous across the city which are intended to connect remote parts of the city and which are used primarily for fast or heavy-volume traffic and shall include, but not be limited to, each street designated as a an arterial or higher classification ~~major street~~ on the approved ~~major street~~ master thoroughfare plan.
- (2) *Collector streets* are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
- (3) *Minor streets* are those which are used primarily for access to abutting residential properties which are intended to serve traffic within a limited residential district. Also referred to as local streets.
- (4) *Alleys* are minor traveled ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

Transportation improvement means work undertaken by or pursuant to contract for the state or political subdivision of the state for the purpose of improving or maintaining public right-of-way transportation and related storm drainage infrastructure.

(Code 1964, § 22-51)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 90-92. Prohibited activities.

- (a) It shall be unlawful for any person (unless expressly exempted hereunder) to work within the city public right-of-way without a permit except as follows:
 - (1) Work was begun in response to an emergency and a permit was timely applied for in compliance with section 90-111 of this article.
 - (2) Work that is being performed by a public right-of-way construction entity or its contractor in connection with a transportation improvement and the owner, with the consent of the public works construction entity, has retained the public works construction entity or its contractor to install the facility concurrently with the making of the transportation improvement.
- (b) It shall be unlawful for a permittee to work within the city public right-of-way in violation of any term of a permit issued pursuant to this article.
- (c) It shall be unlawful for any person to fail to exhibit a permit upon request. If any prosecution under this article, it shall be presumed that there is no permit if the permit is not properly exhibited upon request.
- (d) It shall be unlawful for a permittee or person to fail to remove or relocate facilities in the city public right-of-way when required or instructed by the city to do so under Section 90-117.
- (e) It shall be unlawful for any person to place an unyielding object in the city public right-of-way.

Sec. 90-93. Provisions cumulative.

- (a) The provisions of this article are cumulative of all other requirements of this article and other laws, including, without limitation, building and fire codes, utility franchises, as well as all applicable state and federal laws and regulations. Compliance with this article does not excuse compliance with any other law, and permittees are additionally required to obtain any other permits, licenses, and authorizations required by law including but not limited to utility franchises, permits, licenses and authorizations that are required to be obtained from the city, state department of licensing and regulation, the state public utility commission, municipal utilities and the state underground facility notification corporation, or any other appropriate governmental agency. However, to the extent that any provision set forth in this article may not be imposed upon any person because its imposition would be inconsistent with a controlling state or federal law, this article shall be construed and applied in a manner that conforms with the applicable state or federal law.
- (b) To the extent that any other city permit or authorization is required for work that is also governed by this article, the city engineer shall, to the extent practicable, devise consolidated application forms and issue the required permits or authorizations on a combined basis.

Sec. 90-94. Penalties.

Any person violating this article shall, upon conviction, be punished pursuant to section 1-14.

(Code 1964, § 22-56)

Sec. 90-95. No private rights in public right-of-way.

Nothing in this article shall be construed to give any person or permittee any property right in or to the use of the public right-of-way. All permits issued and held under this article shall be subject to the superior right of the public to control the use of the public right-of-way and ensure the safe and orderly movement of traffic.

Sec. 90-96. Rules and regulations.

The city engineer shall promulgate rules and regulations regarding any aspect of the operation of this article, including, without limitation, construction standards, methods by which excavations will be performed, debarment procedures, and inspection procedures. The rules and regulations shall be consistent with applicable federal and state laws, city ordinances, and sound engineering practices.

Sec. 90-93. Barricades and warning devices.

- ~~(a) Any person who undertakes to perform any work upon, in, under, above or about any public street, highway, roadway, alley or sidewalk, collectively called the public right of way, which requires that the street be partially or completely closed for construction and maintenance operations, which work shall require excavation within or occupancy of the whole or a portion of the width of any such public right of way, be it occupied with equipment, materials, debris or workers, shall use barricades, signals, flags, flares and all other traffic control and warning devices and procedures about the work area during the duration of the work within the public right of way of the type and in the manner required by the Uniform Barricading Standards adopted in this article. Such person shall also be required to obtain a permit from the manager of public~~

works and director of utilities if the specifications stated in section 90-94 are applicable, with the exception of the state department of transportation conducting work on any state designated system. In such cases no permit is required. This permit must be acquired before construction is begun. The purpose of the permit is to ensure that ample consideration has been given to the effect of the construction work on the flow of traffic.

- (b) ~~It shall be the responsibility of the permit holder to provide, erect, place and maintain all warning signs, traffic control devices and barricades required by the state manual on uniform traffic control devices or the manager of public works of the city. All such signs, devices and barricades should be in good condition, clean and legible and shall be of the type required by the state manual on uniform traffic control devices. When additional regulatory signs are deemed necessary by the manager of public works, such signing will be installed as directed by the public works department along with such regulatory signs as are required to be provided by the city as required by the manual.~~

~~(Code 1964, § 22-50)~~

~~Sec. 90-94. Contractor's barricading plan.~~

- (a) ~~Any contractor undertaking any work, whether of his own or under contract for any other person, and such work is within a city street and requires that a set of plans be drawn up due to the extensive or complex nature of the work will be subject to this section and must file for a permit before beginning construction. Proof must also be shown that he has obtained approval by other affected agencies of the city to actually perform the work.~~
- (b) ~~A plan must be prepared, if required by the manager of public works, by the contracting agency showing where work is to be performed. The plan will include a standard barricading layout showing placement of barricades, cones and informational signs used on the project. In most cases, layouts will be similar to those shown in the latter part of the manual. Deviation from the manual will be allowed only with approval of the manager of public works or his appointed representative.~~
- (c) ~~The plan must be submitted a minimum of five business days prior to actual beginning of the construction work. This time period will allow the public works department the opportunity to survey the construction site in an attempt to uncover any traffic problems which might develop as a result of the barricading.~~
- (d) ~~Each contractor or construction agency will provide with his barricading plan a listing of all persons directly responsible for safety on each project, to include an address or a telephone listing at which the person can be reached at any hour of the day if a hazardous condition develops.~~

~~(Code 1964, § 22-53(a))~~

~~Sec. 90-95. Contract work by city prepared construction plans.~~

~~If the contractor undertakes work based on plans prepared by the public works department under this article, all detour and barricading requirements will be inserted as part of the construction plans. In this situation, the contractor's acceptance of the construction project will serve as indication that he understands the layout and is responsible and subject to the penalties established in this article.~~

~~(Code 1964, § 22-53(b))~~

Sec. 90-976. Work done by city and public utility companies.

In addition to their application to other persons, the provisions of this article are applicable to work within the city public right-of-way made by the city and its contractors, as well as to work within the city public right-of-way made by or on behalf of other governmental entities and subdivisions, to the extent of the city's police power jurisdiction. In connection with work within the city public right-of-way done by the city, the city engineer may waive compliance with insurance, fees, and other requirements that have no practical application as applied to the city.

- ~~(a) All city forces as well as public utility companies performing construction work within a street under this article which requires that a set of plans be drawn up due to the extensive or complex nature of work will be subject to the same requirements established in section 90-94. Such work would include major street construction (street cuts, street widening, etc.), water and sewer line laying or relocation or offstreet construction which requires that a portion of the adjacent roadway be barricaded.~~
- ~~(b) Construction work performed by city forces or utility companies minor enough such that a set of plans need not be drawn up will not be subject to the same requirements established in section 90-94. Such work includes minor street construction (resurfacing, patching, striping), minor utility work (usage of manholes such that a lane must be barricaded), etc. These forces will be required, however, to comply with all other provisions set forth in the manual as to the construction site barricades layout and signing. In addition, the manager of public works or his authorized representative shall be contacted before the construction work is begun and shall be informed of the location and nature of construction. This work shall not be performed during the peak hour congestion periods of 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m. unless approved by the manager of public works.~~

~~(Code 1964, § 22-53(c))~~

Cross reference(s)—Utilities, ch. 102.

~~Sec. 90-97. Emergency situations.~~

~~The requirements as mentioned in sections 90-93 through 90-96 are to be used for all planned construction projects. If an emergency type situation occurs, notification of work to be done can be made by telephone directly to the manager of public works or his appointed representative, thereby bypassing the requirements mentioned in such sections. Under these conditions the contractor or agency will still be required to follow the basic barricading standards as outlined in the manual.~~

~~(Code 1964, § 22-54)~~

Secs. 90-98—90-110. Reserved.

DIVISION 2. PERMIT

~~Sec. 90-111. Required.~~

~~It shall be unlawful for any person to excavate, break or dig up or assist in breaking or digging up any part of any street, alley or other public place or property or to remove any gravel or dirt therefrom, without a permit to do so.~~

~~(Code 1964, § 22-5)~~

Sec. 90-11~~1~~2. Application.

- (a) A permit for work within the city public right-of-way shall be obtained by the owner of the facility. If the owner of a facility will not be conducting the work with its own personnel, then the contractor retained to perform the work shall join with the owner as an applicant in obtaining the permit. Where two or more related projects are being performed as part of the same project, the application and permit may cover the related work.
- (b) The permit application shall, unless otherwise authorized by the city engineer for good cause shown, be filed with the city engineer at least five business days, but not more than 30 calendar days, before the start of work.
- (c) Applications for permits shall be submitted to the city engineer and shall include the following:
 - (1) The name, assumed name, or business names, business type (corporation, partnership, individual/sole proprietor or other) of each applicant.
 - (2) Each applicant's mailing address (and street address if different), telephone number, and email address.
 - (3) The location of the work, including the depth, length, and width of each excavation to be made in each block and/or intersection, if applicable.
 - (4) The pavement condition index (PCI) of the street(s) being excavated, if applicable.
 - (5) The purpose of the work, including a description of the facilities to be installed, maintained, and/or repaired.
 - (6) The methods of work.
 - (7) The proposed work start date and duration.
 - (8) A statement that each person executing the application is fully authorized to act on behalf of and bind his principal in executing and filing the application.
 - (9) A statement that each applicant accepts and obligates itself to the release and indemnification provisions detailed on the application.
 - (10) The name of the owner of the facility.
 - (11) The 24-hour telephone number at which each applicant's representative who will respond to emergencies may be contacted.
 - (12) The name, mailing address, telephone number, and email address of a person who is authorized to receive all notices authorized to be given by the city under this article to each applicant.
 - (13) Confirmation that all materials necessary for construction will be on hand and ready for use so as not to delay the work.
 - (14) A transmittal number issued by the state underground facility notification corporation showing that the applicant has complied with the Texas Underground Facility Damage Prevention and Safety Act or an assurance that the transmittal number will be provided to the city engineer before any excavation commences.
 - (15) Evidence of insurance as required in section 90-121.
 - (16) The work warranty as required by section 90-115.

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- (d) Each application for a permit for an excavation shall be accompanied by a non-refundable permit fee to defray the expense of carrying out the provisions of this article. This fee schedule is established by the city council and is set forth in Appendix C to this Code.
- (e) An application for a permit for emergency work within the city public right-of-way performed pursuant to section 90-114 shall, in addition to the items required above, also include a written statement containing the following:
- (1) Explaining the basis for the emergency actions.
 - (2) Describing the work being performed.
 - (3) Describing any work remaining to be performed in the public way.
 - (4) Stating the time and date when the emergency occurred.

~~When a permit is required under this division, the permit application shall, unless otherwise authorized by the manager of public works for good cause shown, be filed with the manager of public works at least five business days prior to the day the applicant seeks to first close or block any part of the roadway, shall be in the form of one original and four copies, shall have one set of construction plans and specifications attached to the original application and shall contain the following information:~~

- ~~(1) The name, telephone number, local address and principal place of business of the applicant.~~
- ~~(2) The name and day and night telephone number of the engineer, foreman or other person who will be in charge of the construction or repairs for which the application is requested.~~
- ~~(3) The times of the day and total number of calendar days the applicant seeks to block the roadway.~~
- ~~(4) A statement signed by the applicant or a person authorized to bind the applicant that the applicant will indemnify and forever hold the city harmless against each and every claim, demand or cause of action that may be made or come against it by reason of or in any way arising out of the closing or blocking of the roadway by the applicant under a permit from the city, if such permit is granted.~~
- ~~(5) A standard barricading layout showing placement of barricades, cones and information signs used on the project.~~
- ~~(6) An explanation as to the nature or type of work that is to be performed along with its location.~~
- ~~(7) Any other information deemed necessary by the manager of public works.~~

(Code 1964, § 22-52(a))

Sec. 90-112. Combined permitting.

- (a) Applications for right-of-way work permits and construction plans associated with plats may be submitted and reviewed simultaneously.
- (b) Applications for right-of-way work permits and building permits may be submitted and reviewed simultaneously. Each permit application should clearly indicate the work covered under other permits, referencing appropriate permit numbers.

Sec. 90-113. Approval of application; issuance or denial of permit or disapproval.

- (a) The city engineer, or their designee, shall initially review each application to determine whether it is complete. The engineering department shall return an incomplete application with an explanation of the deficiencies. Consistent with the terms of this article, the city engineer, or their designee, shall approve, approve with conditions, or deny each complete application within 10 business days of acceptance of a complete application. The manager of public works shall either approve or disapprove the application for a permit required under this division in five business days after it is submitted.
- (b) Upon approval of an application, the city engineer shall issue a permit. The permit shall include the following: The manager of public works may approve an application either as applied for or subject to special requirements, as provided in section 90-114, which special requirements shall be endorsed on the permit when issued and become a part thereof. If an application is not approved, the manager of public works shall notify the applicant, in writing, stating the reasons for disapproval. An applicant may, if he desires, undertake the revision of the unapproved application and resubmit it to the manager of public works who shall approve, approve subject to special requirements or disapprove the amended application within two business days.
- (1) Identity of the work within the city public right-of-way that is authorized.
 - (2) Name, mailing address, telephone number, and email address of permittee and owner.
 - (3) Date of issuance.
 - (4) Any special conditions applicable to the permit.
 - (5) The number of days from the date of entry on the public way to final completion to be allowed for the work, taking into consideration the nature and extent of the work and the vehicular and pedestrian use of the public way. Where a permit covers two or more work locations, the number of days for final completion may, consistent with the nature of the work, be separately established for each portion of the work.
 - (6) Any additional information deemed necessary for compliance with this article.
 - (7) A statement that the permit is issued subject to the terms of this article, the construction standards, and all other applicable requirements.
- (c) If an application is denied, the city engineer shall notify the applicant of the grounds for denial. The manager of public works may disapprove an application for a permit under this division only for the following reasons:
- (1) The proposed barricading, channelizing, signing, warning or other traffic control procedures or the equipment therefor do not comply with the requirements of the manual.
 - (2) The nature of the work to be performed or its location is such that the work may, without imposing any undue hardship on the applicant, be performed without the necessity of blocking or closing the roadway.
 - (3) The work or the manner in which it is to be performed will violate a city ordinance or a state statute.
 - (4) Failure to furnish all of the information required by this article or, except for good cause shown, failure to file the application within the time prescribed by this article.
 - (5) Misrepresenting or falsifying any information in the application.

(Code 1964, § 22-52(b))

Sec. 90-114. Applicability to emergency situations.

Nothing contained in this article shall be construed to prevent any person from completing work within the city public right-of-way that is necessitated by an emergency; provided that the owner of the facility shall apply for a permit for work within the city public right-of-way within 24 hours after the initiation of the excavation or, if the city offices are then closed, within 24 hours after the offices of the city are first opened subsequent to the initiation of the work within the city public right-of-way. Under these conditions the contractor or agency will still be required to follow required traffic control standards.

(Code 1964, § 22-54)

Sec. 90-115. Work warranty.

Each applicant shall execute and provide a work warranty in a form approved by the city attorney, which shall be incorporated into the application form. The purpose of the work warranty is to undertake and ensure that the permittee will:

- (1) Timely perform the work in accordance with the permit, all applicable laws, rules, and regulations and the construction standards adopted in or pursuant to this article, subject to remediation as provided in section 90-135 of this article.
- (2) Warrant the work following its completion for two years, subject to remediation as provided in section 90-136 of this article.

Sec. 90-116. Permit not transferrable; void if work not timely commenced.

- (a) A permit issued under this article is personal to the permittee and may not be transferred to another person or used by any other person to perform the work authorized in the permit.
- (b) A permit is valid only for the location(s) described on the application, depicted on the drawings and specifications, and authorized in the permit, and no work shall be authorized at any other location without another permit.
- (c) Unless extended by the city engineer upon written request and for reasonable cause, a permit shall be void if the work has not commenced within 60 days of its issuance.

Sec. 90-117. Removal or relocation of facilities.

All permittees that place facilities thereby obligate and bind the permittee to move or change the location of facilities wherever required or instructed to do so by the city in order to accommodate the construction, repair, or relocation of city infrastructure facilities.

Sec. 90-118. Coordination of work.

Prior to the issuance of a permit, the city engineer may require the applicants to coordinate their work within the city public right-of-way, coordinate work within the city public right-of-way with transportation

improvements that are ongoing or are scheduled by public way construction entities, and/or complete work within the city public right-of-way before transportation improvements commence. The city engineer may grant a waiver of coordination requirements for good cause. The city engineer shall consider the following before granting a waiver:

- (1) Effect of each proposed work on the surrounding vicinity and on traffic mobility.
- (2) The applicant's need for the facility.
- (3) Public health, safety, welfare, and convenience.

Sec. 90-119. Newly constructed or reconstructed streets.

- (a) Except as provided in subsection (b), no permit shall be issued for an excavation in any public way that has been constructed, reconstructed, repaved, or resurfaced in the preceding period of five years, as measured from the date of acceptance by the city or has a pavement condition index (PCI) of 85 or greater. Owners shall determine alternative methods of making necessary repairs and facility installations to avoid excavations that are subject to this section. If no other methods are possible, the installation and associated pavement repairs shall be at the city engineer's discretion.
- (b) The city engineer, for good cause, may allow an applicant for repair of existing utilities, to respond to emergencies, or to afford an owner the means to provide service to buildings that the owner has no other reasonable means of serving in the determination of the city engineer. The city engineer may require special conditions appropriate to the circumstances, such as special coordination with other excavations, special paving requirements, additional soil compaction test reports, or any other requirements needed to restore the integrity of the public way to "as new" condition. In addition to the information provided on the application, applicant shall provide the following with respect to that part of the public way subject to this provision:
 - (1) Reason why the excavation was not performed before or when public way was paved.
 - (2) Reason why the excavation cannot be performed at another location or the owner's need cannot be accomplished by a method that does not require excavation.

Sec. 90-120. Defaults; unauthorized work.

- (a) The city engineer shall not issue a permit to any person who is in default or breach of any obligation to the city under this article on a prior permit or on warranty obligation under section 90-135 or 90-136.
- (b) Except as limited by applicable law, the city engineer is authorized to debar from obtaining a permit any person who has performed unpermitted work within the city public right-of-way or any owner who has knowingly allowed that practice. Any such debarment shall be for a reasonable amount of time that is consistent with the nature and circumstances of the alleged actions.
- (c) Before invoking the provisions of this section, the city engineer shall provide a written notice to the affected persons.

Sec. 90-121. Insurance; surety bonds.

- (a) As a condition of the issuance of a permit, the applicant shall file with the city engineer evidence that the applicant holds a current insurance policy of the type and in limits as set forth below. Such insurance shall name the parties required to secure same as insured, shall include the city as an additional insured, and provide the city with waiver of subrogation. Each policy shall include a provision obligating the insurer to furnish to the city engineer at least 15 days prior written notice of any cancellation. The insurance limits listed below are considered minimum amounts and may be increased at the discretion of the city engineer as appropriate to the circumstances.
- (1) Liability insurance. A policy of comprehensive general liability insurance covering the work within the city public right-of-way, with an endorsement for any liability assumed under this article and policy limits of not less than \$1,000,000.00 for property damage, per occurrence, and of not less than \$1,000,000.00 per person, and \$1,000,000.00 per occurrence, for bodily injury or death.
- (2) Workers compensation insurance. Such insurance will provide applicable statutory workers compensation coverage pursuant to the Workers Compensation Act, State of Texas, including employer's liability protection with a minimum limit of \$1,000,000.00 per occurrence.
- (b) The failure of the permittee to continuously maintain any required coverage shall cause any permit covered thereby to become invalid. No work may be performed on any work within the city public right-of-way any time when any required proof of insurance coverage is not on file in the city engineer's office. Following notice the city engineer shall revoke any permit for which any required proof of insurance is not being maintained.
- (c) Evidence that the contractor who will perform the construction meets the requirements in this article shall be submitted as a part of the application for a right-of-way work permit.
- (d) For joint applications and permits, the coverage required in this section may be provided by a policy jointly covering all of the applicants or by separate proofs of coverage for each applicant or permittee.
- (e) The insurance requirements of this section do not apply to work being performed by a homeowner performing work in connection with their owner-occupied homestead. Before a permit may be issued for such work, the homeowner shall name the City as an additional insured with waiver of subrogation under their homeowners or umbrella policies of insurance.
- (f) For good cause, and if necessary to protect the health, safety, and welfare of the public, the city engineer may require as a condition to the issuance of a right-of-way work permit or before work begins under the permit, that the applicant or permit holder post a bond to insure the repair of streets or the completion of the proposed work or to insure compliance with any other requirement of this article.

Sec. 90-114. Special requirements.

- (a) ~~Under this division, the manager of public works may, at the time he approves an application or any time after a permit is issued, require:~~
- (1) ~~The use or specific location of additional barricades, signals, signs or other traffic control or safety devices or the pursuance of special traffic control or safety procedures.~~
- (2) ~~The work be performed only at certain hours during the day or night or during specified days of the week.~~

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- ~~(3) Only a specified area or not more than a specified number of lanes shall be blocked at the same time or at specified times of the day.~~
- ~~(4) Materials and equipment used in the work site and dirt removed from any excavation be located other than in the vehicle traffic lanes of such roadway.~~
- ~~(5) All equipment be moved from the traffic lanes and any excavation in the traffic lanes be covered or filled with materials of sufficient strength and construction to permit vehicular traffic to pass over such excavation during all or part of the peak traffic periods or at night.~~
- ~~(b) When such requirements are deemed necessary by the manager of public works in the interest of public safety and to avoid traffic congestion, any such special requirements shall be endorsed on the permit and shall be a part thereof.~~
- ~~(Code 1964, § 22-52(c))~~

Sec. 90-12215. Amendments; extensions~~Revocation.~~

- ~~(a) A permit shall no longer be valid if there are material changes to the work within the city public right-of-way, including but not limited to a change in the scope of work or the method of performing the work of such consequence that the description of work in the permit application no longer accurately depicts the work. An amendment shall be required in order to continue the work within the city public right-of-way. To obtain an amendment, the permittee shall submit an application therefore, including amended drawings and specifications, indicating any changes. A permit shall not be amended to include work within the city public right-of-way that is not related to the original permit or to extend the work within the city public right-of-way into any geographical area not included in the original permit.~~
- ~~(b) For good cause not relating to any fault of the permittee in diligently prosecuting the work within the city public right-of-way, the city engineer may extend the number of days allowed in the permit pursuant to subsection 90-113(b)(5) for completion of the work within the city public right-of-way. Extensions of time under this subsection shall not be regarded as amendments, but shall be noted on the records regarding the permit.~~

~~Any designated responsible person or his authorized representative may revoke a permit issued under this division if any of the permit holder's barricading, signing, channelizing, warning or other traffic control procedures or the equipment at the work site do not comply with the requirements of the manual or with any special requirements imposed by the manager of public works, and not to exceed 24 hours, to correct same before such permit is revoked, it shall be unlawful to continue to block the roadway, except to restore the site to its proper condition as required in this article.~~

~~(Code 1964, § 22-52(d))~~

Sec. 90-116. Restoration of work area after permit revocation.

~~If a permit issued under this division is revoked, the permit holder shall immediately commence operations to restore the work area within the roadway to its proper condition, such work to be completed within 24 hours. In addition, except as required to restore the work area to its proper condition, the permit holder shall remove all equipment, men, materials and debris from the roadway. If such restoration is not done, the city shall be authorized, at its election, to take charge of the work and restore the premises to its proper condition and shall be entitled to recover from the permit holder by civil action the actual expenses incurred by the city in restoring the premises, including but not limited to costs of labor, materials, overhead, rental of any equipment used by the city in restoring the site and attorney's fees, and for such purposes the city shall have a right of action against any~~

bonds in effect running from the holder of the permit to the city, conditioned upon compliance with the ordinances of the city.

~~(Code 1964, § 22-52(e))~~

~~**Sec. 90-117. Requirements for installation of utility lines.**~~

~~(a) All public and private utility lines including, but not limited to, gas, telephone, cable, and telecommunication lines that are installed within or under any city right-of-way or street, shall be placed so that the uppermost surface of the utility line is at least 24 inches below the existing surface.~~

~~(b) The minimum depth established above in subsection (a) shall apply to any subdivision in the city's extraterritorial jurisdiction that is subject to the city's unified development code.~~

~~(Ord. No. 2016-39, § 1, 5-17-16)~~

Secs. 90-12318—90-130. Reserved.

DIVISION 3. PERFORMANCE OF WORK

Sec. 90-131. Access to fire hydrants.

Each work within the city public right-of-way shall be performed so it does not obstruct emergency access to any fire hydrant or public water supply valve.

Sec. 90-132. Crossings; traffic control devices.

It shall be the duty of each permittee to make provisions for the safe crossing of pedestrians and the orderly movement of vehicular traffic. Provisions therefore shall be included in the permit application for the work within the city public right-of-way. Any required traffic control devices shall conform to applicable laws, including but not limited to the Texas Manual on Uniform Traffic Control Devices.

Sec. 90-133. Street restoration.

All restoration shall be performed in compliance with construction standards promulgated by the city engineer pursuant to section 90-96.

Sec. 90-134117. Requirements for installation of utility lines.

(a) All public and private utility lines including, but not limited to, gas, telephone, cable, and telecommunication lines that are installed within or under any city right-of-way or street, shall be placed so that the uppermost surface of the utility line is at least 24 inches below the existing surface.

(b) The minimum depth established above in subsection (a) shall apply to any subdivision in the city's extraterritorial jurisdiction that is subject to the city's unified development code.

(-Ord. No. 2016-39, § 1, 5-17-16)

Sec. 90-135. Warranty of completion of work.

A permittee shall notify the city engineer before commencing and obtain permission to commence the work within the city public right-of-way before it enters the public way. In connection with the notification and permission, the authorized date of entry on the public way, for purposes of subsection 90-113(b) shall be established. In connection with the notification, the permittee shall also furnish the transmittal number required under subsection 90-111(c)(14), if it has not previously been provided. The permittee shall diligently prosecute the work within the city public right-of-way to its final completion within the time authorized under the permit. If a permittee commences work within the city public right-of-way and then fails, refuses, or neglects to diligently prosecute or to timely complete the work in accordance with the permit and all applicable rules and regulations and the construction standards adopted in or pursuant to this article, the city engineer may, following written notice to the permittee, perform the work or cause a city contractor to perform the work. The city engineer shall afford the permittee five days written notice and opportunity to cure before taking over the work within the city public right-of-way, unless the city engineer determines that hazards to public safety and convenience that are posed by the condition of the work require a shorter notice period. The city engineer may charge the cost of having the work within the city public right-of-way performed, including related administrative expenses, to the permittee. The city engineer shall notify the permittee, and the permittee shall be obliged to pay the cost within 30 days following receipt of notifications.

Sec. 90-136. Warranty of work; correction of defects.

Each permittee shall warrant its work within the city public right-of-way against all defects in workmanship and materials for a permit of two years after its final completion. Whenever within the two-year period any portion of the work within the city public right-of-way under such a warranty is, in the city engineer's determination, in need of repair, by reason of any defect in workmanship or materials, the city engineer shall serve upon the permittee a written notice stating the repairs necessary and requiring the repairs to be made within five business days after service of notice. If the repairs are not timely made, the city engineer shall at once make or cause to the repairs to be made at the expense of the permittee. The expenses, including any related administrative expenses, shall be charged to the permittee, and the permittee shall be obliged to pay the cost within 30 days following receipt of notification.

Sec. 90-137. Inspections of work.

(a) All work within the city public right-of-way shall be inspected by the city engineer or designee to ensure compliance with construction standards and all applicable provisions relating to the permit. Based upon the complexity and nature of the work and as specified in the permit, inspections may be required during the performance of the work, immediately upon completion of the work, or both.

(b) Consistent with applicable laws, sound engineering practices, and the nature of the work within the city public right-of-way, the city engineer may, in addition to or in lieu of the city inspections called for under subsection (a), require that a permittee, at the permittee's expense, retain a professional engineer licensed in the state, to observe the work and, based upon the observations, to provide written certification upon

completion of the work stating that the public way has been restored in accordance with all other applicable technical requirements.

Sec. 90-138. Damage to facility.

A permittee who, in connection with work within the city public right-of-way, damages another owner's facility shall immediately notify the city engineer and, to the extent that the owner's identity is reasonably determinable, the owner of the damaged facility.