

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2023-09

AN ORDINANCE AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, TITLED “STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES”; BY ADDING A NEW ARTICLE TITLED “RIGHT-OF-WAY MANAGEMENT”, TO CREATE REGULATIONS, INCLUDING A PERMIT REQUIREMENT, FOR CONSTRUCTION, MAINTENANCE, AND REPAIR WORK WITHIN THE CITY’S RIGHTS-OF-WAY; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, the State of Texas has delegated to each city the fiduciary duty, as a trustee, to manage the rights-of-way within a city for the health, safety, and welfare of the public, subject to state law; and

WHEREAS, City Council has determined that construction within the City of Kerrville’s rights-of-way, at times, significantly interferes with the public use of the streets and results in a negative impact to public safety, level of service on streets and sidewalks, and aesthetics of the community; and

WHEREAS, City Council has determined that substantial public funds have been invested to build, maintain, and repair City streets, utilities, and rights-of-way; and

WHEREAS, City Council finds it desirable to adopt regulations to manage construction and other work within the City’s rights-of-way to protect and safeguard the public infrastructure; and

WHEREAS, City Council finds that the regulations provided for by this Ordinance are reasonable, necessary, and for the public benefit;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Chapter 90 *“Streets, Sidewalks, and other Public Places”* of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding a new Article IV *“Right-of-Way Management”*, which will add the language that is underlined (added) as follows:

"ARTICLE IV. – RIGHT-OF-WAY MANAGEMENT

Sec. 90-90. – Administration.

The provisions of this Article shall be administered by the City Manager or designee ("Director").

Sec. 90-91. Purpose; violation.

It is unlawful for any person to fail to comply with any provision of this Article, including anyone who constructs within the City of Kerrville, Texas ("City") right-of-way or in violation of any detailed statement of specifications or plans submitted and approved by the City, or any certificate or permit issued by the City. Anyone violating a provision of this Article shall be guilty of a misdemeanor and upon conviction, shall be subject to the general penalty provision found in Section 1-7 of this Code. Each day any violation or noncompliance continues shall be a separate offense. For purposes of this Article, a "person" means a natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, association, and other such entity who owns or controls facilities.

Sec. 90-92. Injunctive relief and other remedies for violation.

Any person who fails to comply with any provision of this Article, or who commits any of the acts described by this Article, or is found guilty of any of the omissions thereof, shall be liable to injunctive action prohibiting the violation of this Article and shall be subject to being mandatorily enjoined to restore any right-of-way illegally excavated to its original form and function; and shall be liable and responsible for any and all expenses that may be incurred by the City in connection with any such action, omission, or other violation, including reasonable attorneys' fees.

Sec. 90-93. Authorized hours for right-of-way construction.

Unless approved in writing by the Director, any construction governed by this Article is restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, except for City-recognized holidays ("holidays"). For purposes of this Article, "construction" or "construct" means any of the following activities performed by a right-of-way user within a right-of-way: a. installation, excavation, laying, boring, jacking, placement, repair, upgrade, maintenance, or relocation of facilities or other improvements, whether temporary or permanent; b. modification or alteration to any surface or subsurface; c. performance, restoration, or repair of pavement cuts or excavations; and/or d. any other similar work. "Facilities" means the plant, equipment, and property, including lines, transport service, poles, mains, pipes, conduits, ducts, cables and wires located under, on, or above the surface of the ground within the right-of-way and valves and related equipment used or useful for the provision of utility services, wireless or network services, or communication services to the public.

Sec. 90-94. Notice of violation.

The Director may give notice to any person who violates this Article and the person receiving the notice shall correct all violations alleged in the notice. Failure to correct any such alleged violations shall cause the person to be subject to penalties provided in Sections 90-91 and 90-92. The Director's notice may initially consist of oral notice, but must be followed up in writing. Notwithstanding this section, the Director does not need to provide any such notice prior to the application of Sections 90-91 and 90-92.

Sec. 90-95. Revocation, suspension, or denial of permit.

Notwithstanding other sanctions set forth in this Article, if any of the provisions of this Article are not complied with, the Director may revoke or suspend a permit previously issued by the City. If a person has not followed the terms, conditions, or specifications of this Article in work done pursuant to a prior permit, the Director may deny new permits or impose additional requirements applicable to a current permit.

Sec. 90-96. Non-transferability of permits.

Any permit issued under this Article is not transferable from the person receiving the permit to another person without the prior written approval of the Director.

Sec. 90-97. Effect on City's liability.

No permit or certificate of inspection shall be conclusive as against the City that the work therein referred to has been installed in conformity with any applicable law; but the owner of the premises, the contractor, and all other persons concerned shall be obligated to see that all matters, things, and acts to which this Article and such permit or certificate relate shall comply with all local, state, and federal laws. All work installed in this City for purposes provided herein shall be maintained in full compliance with this Article.

Sec. 90-98. Preserving other ordinances not in conflict.

This Article takes precedence over any other existing ordinance of the City which may contain provisions that are less restrictive than those specified in this Article. However, nothing contained in this Article mitigates, interferes with, alters, or repeals any provision of any other ordinance of the City not in conflict with the provisions of this Article.

Sec. 90-99. Right-of-way construction.

No person shall commence or continue with construction above, upon, or beneath right-of-way in the City except as provided by this Article, including the directives as part of a permit issued pursuant to this Article.

Sec. 90-100. Construction standards for work within right-of-way.

The City's Technical Construction Standards and Specifications ("TCSS") apply to all construction work undertaken within the right-of-way. A copy of the TCSS is available in the office of the City Engineer. The TCSS is referred to herein as "City construction standards".

Sec. 90-101. Right-of-way permits.

- (a) No person shall perform any construction in the right-of-way without first obtaining a right-of-way permit, except as otherwise provided by this Article. The permit must be in the name of the person who owns or will subsequently own the facilities to be constructed who is referred to within this Article as the right-of-way user. The "right-of-way user" means a person and its successors and assigns that uses the right-of-way for purposes of construction, excavation, provision of services, or installing, constructing, maintaining, or repairing facilities thereon, including landowners, utilities, certified telecommunication providers, network providers, public infrastructure contractors, and the City. The permit application shall be completed and signed by the right-of-way user, who may then be referred to as "applicant" or where a permit is issued, "permittee".
- (b) Construction considered an emergency relating to existing facilities may be undertaken without first obtaining a permit from the City. However, a right-of-way user shall: 1) notify the Director's office as promptly as possible after beginning the emergency construction, but in no event later than the next City-business day, of any emergency construction; 2) provide within two (2) business days a reasonably detailed description of the construction performed in the right-of-way; and, 3) further provide to the Director within ninety (90) days from the date any facilities that are reconstructed or relocated and an updated map of any facilities that were affected by such emergency construction. For purposes of this Article, an "emergency" is narrowly defined as any event that may threaten public health or safety, including, unexpected or unplanned outages, cuts, ruptures, leaks, or any other failure of a utility facility that prevents or significantly jeopardizes the ability of a utility to provide service to customers; or could result in danger to the public or a material delay or hindrance to the provision of service to the public if the outage, cut, rupture, leak, or any other such failure of utility facilities is not immediately repaired, controlled, stabilized, or rectified; or any unforeseen occurrence involving a utility facility that a reasonable person could conclude under the circumstances that immediate action by the utility is necessary and warranted in order to protect public safety and welfare. Upgrading facilities, new service installations, and improvement projects are not an emergency.
- (c) An applicant shall provide the Director the following information prior to the issuance of a permit and such information shall be incorporated by reference into the permit if issued by the Director:

- (1) the name of the right-of-way user, to include entity name, contact information, and emergency contact information;
- (2) a description of the location of construction activities;
- (3) a description and location of existing facilities and/or facilities to be installed;
- (4) a description of the route of all facilities to be constructed on or about the right-of-way;
- (5) the location of all right-of-way easements which the applicant plans to use;
- (6) location of existing City and third-party facilities as required by section 90-110;
- (7) description of plans, which may be submitted as a form statement, to restore existing facilities pursuant to this Article and other right-of-way construction. Such plans shall comply with the standard construction guidelines of the City, including the City construction standards;
- (8) drawings of any bores, trenches, hand holes, manholes, switch gear, transformers, pedestals, poles, and the like, including applicable depths and heights;
- (9) typicals of manholes and hand holes that the applicant plans to use or access;
- (10) the construction methods and materials to be employed by the applicant for the protection of existing facilities within, above, beneath, or adjacent to the right-of-way, which methods and materials are subject to approval by the Director;
- (11) estimated dates and times that construction is scheduled to be performed;
- (12) the base material to be used pursuant to section 90-108;
- (13) the methods and scope for the restoration of property pursuant to section 90-119;
- (14) three (3) sets of construction plans which shall be on a scale not to exceed one inch equaling one hundred (100) feet unless otherwise approved by the Director. The plans shall include the dimensions from the proposed facility to permanent reference points;
- (15) detailed description of what the applicant proposes to construct, including if applicable, pipe sizes, the number of interducts, and valves;
- (16) a complete legend of drawings submitted by the applicant, which may be provided by reference to previously submitted documents; if symbols are used, the applicant shall provide the City with an accurate guide to the meaning of the symbols;

(17) the submission of proof of insurance, bond, or other financial information required by this Article or a written statement that proof of insurance, bond, or other financial information is current and on file with the City; and

(18) a traffic control plan acceptable to the Director.

(d) All construction in the right-of-way shall be in accordance with the right-of-way permit for the facilities. The Director shall be provided access to the right-of-way construction and to such further information as the Director may reasonably require in order to ensure compliance with the permit or this Article.

(e) A copy of the right-of-way permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the Director at all times when construction is occurring.

(f) All construction authorized by permit shall be completed in the time specified in the permit. If construction cannot be completed in the specified time period, the permittee may request an extension of time from the Director. The permittee may continue work specified within the permit during the time the request for an extension is pending, so long as the request is made prior to the expiration of the permit.

(g) A copy of any permit or approval issued by federal or state authorities for work in federal or state right-of-way located in the City shall be provided by the permittee to the Director upon request.

(h) A request for a right-of-way permit shall be submitted at least eighteen (18) days before the commencement of the proposed construction unless:

- (1) the construction is for primary service and federal or state law requires construction time be less than eighteen (18) days; or
- (2) the Director agrees to a request by the applicant for a modified submission date.

(i) Requests for right-of-way permits shall be promptly processed and approved or disapproved by the Director but in any event no later than fifteen (15) days after receiving all the permit information required under this Article, except that, if subsection (h)(1) of this subsection shall apply, a right-of-way permit shall be processed as soon as reasonably practical.

(j) The Director may require a pre-construction meeting with the permittee.

Sec. 90-102. Sidewalk and lane closure permit.

(a) When work on a sidewalk or lane of a thoroughfare, including an alleyway used by traffic, requires closure, the right-of-way user shall apply for a closure permit from the Director, to include submission of the permit fee.

- (b) The right-of-way user shall be responsible for compliance with Texas Department of Transportation (“TxDOT”) rules concerning markings, flagmen, barricades and barriers, and steel plate covers whether the closure occurs on a state or City controlled right-of-way.
- (c) The application for a closure permit shall include point of contact and date and time information regarding the closure.
- (d) Application fees for closure permits for sidewalks, residential thoroughfares, arterial streets, and other rights-of-way shall be as adopted in the City’s fee schedule.

Sec. 90-103. Required inspections.

- (a) The Director shall provide inspections, including the following, to verify full compliance with the right-of-way permit and all federal, state, and local laws:
 - (1) upon installation of equipment, but prior to backfill;
 - (2) backfill, but prior to surface patch; and
 - (3) final inspection upon completion of work.
- (b) The fact that an inspection has been performed does not relieve, excuse, or otherwise alleviate or minimize a permittee’s obligations of otherwise complying with this Article or from complying with other obligations or specifications legally imposed on a permittee.

Sec. 90-104. Inspection fees.

- (a) Permit fees include the cost for the initial inspection of completed work. When work has been reported to the Director as completed and ready for inspection, and when upon such inspection the work is found to be incomplete or defective, an additional non-refundable fee shall be paid at the time of the next request for inspection. After the second failed inspection, the inspection fee for each subsequent request for inspection shall be double the previous fee.
- (b) If the inspection requires the Director to use a third-party consultant, the City shall apply a non-refundable fee for the actual cost paid by the City plus a three (3) percent administrative fee.
- (c) Unless waived by the Director in accordance with section 90-105, inspections shall not be conducted until any and all outstanding fees owed to the City are paid in full.
- (d) All fees shall be as adopted in the City’s fee schedule.

Sec. 90-105. Right-of-way permit and fee exemptions.

The Director shall have the authority to waive fees provided for in this Article for public agencies, licensees, franchisees, certificated telecommunications providers, and others but only where providing the City with construction or other services.

When deemed appropriate, the Director shall also have the authority to waive the requirement for a right-of-way permit.

Sec. 90-106. Failure to obtain necessary inspections.

A permittee who fails to obtain and pass all necessary inspections shall be in violation of this Article. Violation of this Article may be addressed by any combination of the following options:

- (1) Refusal of the Director to issue future permits to the violator until the inspections are successfully obtained;
- (2) Such actions as are permitted under the provisions of Sections 90-91 and 90-92; and/or
- (3) Other such appropriate procedures and measures at the time of the violation(s).

Sec. 90-107. Construction procedures.

- (a) A permittee shall notify the Director not less than twenty-four (24) hours in advance that construction is ready to proceed and provide the name, address, and phone number of the contractor and/or subcontractor(s) who will perform the actual construction, including the name and telephone number of an individual designated by the contractor or subcontractor(s) who will be available for contact by the Director at all times during construction.
- (b) A permittee shall notify all adjoining or impacted property owners not less than twenty-four (24) hours in advance of any construction unless such construction constitutes an emergency as defined herein. The Director will approve the type and scope of notification, which shall then be specified within the permit.
- (c) Construction shall comply with federal, state, and local laws, to include the City construction standards.
- (d) A permittee shall place information signs at the boundary(s) of the location where construction is to occur. Such signs, which must be approved by the Director and referenced within the permit, shall measure approximately three (3) feet by three (3) feet and specify the identity and telephone number of the person performing the construction (contractor). The signs shall be posted at least twenty-four hours prior to construction and remain posted during the entire time of construction. If construction is due to an emergency as defined in this Article, the twenty-four hour advanced placement is not required.
- (e) The size and nature of facilities subject of the construction within the right-of-way, including their location, depth, height, upgrades, and other particulars, are subject to the approval of the Director unless such approval conflicts with federal or state law.

Sec. 90-108. Base material.

Base material shall be constructed as designated on the right-of-way permit and as required pursuant to the City construction standards. A permittee shall notify the Director not less than two (2) hours prior to the placement of base material. Failure to do so may result in the Director immediately suspending further construction and the required removal of any base material placed without prior approval.

Sec. 90-109. Disturbance of facilities.

- (a) A permittee's facilities shall not be allowed to disturb City facilities, in particular gravity-dependent facilities.
- (b) The Director may require a permittee to keep a reasonable distance from facilities which are City-owned or leased. Facilities constructed shall be presumed to disturb facilities which are City-owned or leased if the existing facility, or the facility to be constructed, is within three (3) feet horizontally of such City-owned or leased facility. However, nothing in this section shall diminish the authority of the Director to require specific placement of particular facilities.

Sec. 90-110. Location and placement.

- (a) Prior to commencing construction, unless otherwise excepted by this Article, a permittee shall verify the horizontal and vertical location of existing City and third-party facilities within three (3) feet of the proposed construction. Prior to commencing construction, unless otherwise excepted by this Article, a permittee shall verify only the horizontal location for facilities outside three (3) feet of the proposed construction and which may be reasonably anticipated to be disturbed by the construction.
- (b) Any facility constructed by a permittee shall maintain a minimum of six (6) inches vertical separation when crossing any existing facility.
- (c) Facilities constructed by the permittee shall be constructed at a minimum depth of twenty-four (24) inches, except the Director may require a lesser or greater depth if it is deemed necessary for the health, safety, or general welfare of the public.
- (d) All bores shall be a minimum of twenty-four (24) inches below the street gutter or edge of pavement.
- (e) All directional boring shall have the right-of-way user place bore marks and depths while the bore is in operation. The right-of-way user shall place a mark at each stem with a paint dot and shall mark the depth at least at every other stem.
- (f) Placement of all appurtenances must be approved by the Director prior to placement.

Sec. 90-111. Conformance with public improvements.

- (a) For the purpose of conforming underground or overhead facilities for public improvements, and as allowed by, or consistent with, federal or state laws governing such conformance, and if it shall be deemed necessary by the Director to undertake such conformance, such conformance shall be accomplished by permittee, at the permittee's expense and direction, within ninety (90) days from receipt of notice from the Director unless a longer time schedule has been approved by the Director. The Director will consider all reasonable and economical public improvement alternatives prior to requiring conformance. The permittee may notify the Director of options other than conformance.
- (b) Facilities that do not conform after ninety (90) days to the stated purposes set forth in the permit or within an extended schedule approved by the Director, are subject to removal from the right-of-way by the City. If removal occurs, City shall not be liable for damages or other compensation to the permittee or any other person, but the City shall be responsible for reasonable care of such removed facilities while such facilities are in City custody and until permittee takes possession of such removed facilities. The City shall bear no responsibility for removed facilities not reposessed by permittee within thirty (30) days after the City has taken custody of removed facilities.
- (c) Whenever it shall be necessary to require a permittee to conform its facilities within the right-of-way, such conformance shall be made without claim for reimbursement or damages against the City. It is understood and further provided, however, that the City shall not require a permittee to remove its facilities entirely from the right-of-way. If the City requires the permittee to conform its facilities to enable any entity or person other than the City to use, or to use with greater convenience, the right-of-way, the permittee shall not be required to conform its facilities until such other person reimburses or make arrangements satisfactory to the permittee to reimburse the permittee for any loss and expense caused by or arising out of such conformance.

Sec. 90-112. Erosion control.

- (a) The permittee shall cause all erosion control measures, including backfill, silt fencing, advance warning signs, markers, cones, and barricades to be in their proper locations before construction begins in the right-of-way. The permittee is responsible for storm water management erosion control that complies with federal, state, and local laws. Requirements may include the installation of silt fencing in erosion areas until reasonable vegetation is established and wire-backed silt fencing around high erosion areas.
- (b) A right-of-way user may be required to show proof of plans approved by the applicable federal and/or state agency (e.g., Texas Commission on Environmental Quality ("TCEQ")) relating to storm water and erosion, when applicable, or in the

alternative, written documentation verifying that the right-of-way user is not required to obtain such plans.

Sec. 90-113. Traffic control.

Unless an emergency exists, as that term is defined herein, traffic lane closures in the right-of-way which obstruct the flow of traffic for longer than four (4) hours at a time may be allowed only under the direction and permission of the Director and in accordance with the *Texas Manual on Uniform Traffic Control Devices* ("MUTCD") and other applicable federal, state, and local laws, except that the flow of traffic on collectors or arterials cannot be obstructed for any period of time except under the direction and permission of the Director and in accordance with the MUTCD and federal, state, and local law.

Sec. 90-114. Street and sidewalk cuts.

- (a) Except in the event of an emergency, when a street or sidewalk cut is required, prior written approval must be obtained from the Director, and all requirements of this Article and other applicable ordinances must be followed.
- (b) Prior to excavation of a street or sidewalk, a right-of-way user shall be in compliance with federal, state, and local law, including the *Texas Underground Facility Damage Prevention and Safety Act* (Ch. 251, Tx. Utilities Code).
- (c) All trenches in asphalt or concrete-surfaced areas shall have a clean, straight cut through the pavement surface prior to removal of the surface, in accordance with City specifications, including the City construction standards. Any cuts in sidewalks, including those cuts required in the event of an emergency, shall be made at existing control joints.
- (d) Except in the event of an emergency, a right-of-way user shall notify the Director not less than two (2) hours prior to commencing a street or sidewalk cut.
- (e) A right-of-way user shall comply with proper traffic control during a street or sidewalk cut. Traffic control shall be in conformance with the MUTCD and other applicable federal, state, and local law.
- (f) A right-of-way user shall be responsible for obtaining line locates from all affected facilities prior to executing any street or sidewalk cut.

Sec. 90-115. Prohibition of street and sidewalk cuts; exceptions.

- (a) Notwithstanding section 90-114, no street or sidewalk cut may be made as follows, with the Director being responsible for maintaining specific dates:
 - (1) within five (5) years of the finalized construction of new pavement;
 - (2) within five (5) years of the finalized use of mill and overlay; or
 - (3) within two (2) years of the finalized use of slurry seal.

(b) Exceptions to subsection (a) may apply for an emergency repair, minor repair, or new installations, in accordance with the following:

(1) an emergency repair is permitted but only where damage or an uncontrollable leak has occurred that renders the utility no longer operable.

(2) a minor repair exists where there is a new service line installation or a repair made that does not extend more than five (5) feet perpendicularly from the back of curb.

(c) where an exception does not exist and a right-of-way user chooses to proceed, any such cut shall require:

(1) a larger paving section to mitigate degradation, as determined by the Director.

(2) the right-of-way user to repave the entire block curb to curb, intersection to intersection, as determined by the Director.

(d) all pavement repairs to cuts made under this section shall comply with the City construction standards.

Sec. 90-116. Waivers.

(a) Where a prohibition against a street or sidewalk cut exists pursuant to section 90-114, a right-of-way user may apply for a waiver from City Council. Any application for a waiver shall include the submission of the applicable fee.

(b) To be considered for approval, the street and/or sidewalk cut and pavement repair shall be designed in a manner to mitigate early pavement degradation, including drainage, water infiltration, lanes, and wheel paths.

(c) a pre-application conference with the Director is required prior to the submission of a waiver application.

(d) the Director shall provide City Council with a recommendation as to whether a waiver should be granted.

(e) The Director shall set a date for City Council's consideration of a waiver within 30 days from the date a complete application for a waiver is received.

(f) In considering a waiver, City Council shall determine if trenchless technology, such as boring or other methods, can adequately be used. Where such technology may be used, a waiver shall not be approved.

Sec. 90-117. Backfill.

(a) Backfill shall be constructed pursuant to the City construction standards. A right-of-way user shall notify the Director at least two (2) hours prior to beginning backfill operations. Failure to so notify may result in suspension of construction and removal of any unauthorized installed backfill.

(b) Densities may be taken to ensure compliance with standard backfill requirements. At least five (5) days prior to the commencement of the backfill operations, a right-of-way user shall submit to the Director a sample of the backfill material to be used at the construction site.

(c) In excavations eighteen (18) inches or less in width, or where for any reason compaction cannot be achieved with gravel backfill, flowable concrete shall be used in place of gravel backfill in all areas within three (3) feet of the back of the curb or the edge of pavement. Flowable fill shall conform to the City construction standards.

Sec. 90-118. Substandard construction.

(a) A person performing construction in City right-of-way shall perform such construction in a manner that complies with federal, state, and local law, to include the City construction standards.

(b) Facilities installed after the effective date of this Article shall be presumed to be improperly constructed and substandard if:

- (1) the construction endangers, or is reasonably likely to endanger, the general public or persons using the right-of-way;
- (2) the facilities do not meet federal, state, or local law, to include the City construction standards;
- (3) the facilities are not capable of being reasonably located pursuant to the City construction standards or as otherwise required by this Article;
- (4) the facilities are not located in the proper place in accordance with this Article, the directives provided by the Director pursuant to this Article, or the City construction standards;
- (5) the facilities are placed in an area that disturbs facilities which are City-owned or leased; and/or
- (6) the facilities constructed or to be constructed are within three (3) feet horizontally of such City-owned or leased facility.

(c) Substandard construction is unacceptable to the City and may be ameliorated by the City or by a third party, at the direction of the City, and the right-of-way user shall be liable for the costs of such amelioration. Before amelioration is undertaken by or at the direction of the City, the right-of-way user shall be provided notice and allowed ten (10) days, or a longer period of time if requested by the right-of-way user and granted by the Director, to bring the construction up to applicable standards acceptable to the City.

Sec. 90-119. Insurance requirements.

Any right-of-way user seeking a permit shall carry, and provide documentation upon request, the following:

- (1) worker's compensation insurance covering all employees of contractor engaged in any operation covered by the permit;
- (2) automobile liability insurance;
- (3) general liability insurance of at least five hundred thousand dollars (\$500,000.00) for personal injury and one hundred thousand dollars (\$100,000.00) for property damage; and
- (4) umbrella coverage of at least one million dollars (\$1,000,000.00) on an occurrence basis and must include coverage for personal injury or death, contractual liability, premises liability, medical damages, and explosion and collapse hazards.

Sec. 90-120. Liability for damage.

- (a) Without intending to affect or determine the legal relationship between a right-of-way user and any third party, the right-of-way user and/or any person working for or at the direction of the right-of-way user shall be liable for any property damage or destruction it causes as a result of constructing within the right-of-way. A designated agent or representative of the right-of-way user shall be available to the Director for contact purposes in the event of damage or destruction.
- (b) A right-of-way user shall notify the Director upon occurrence of any damage or destruction to any facility or other property owned or leased by a third party or by the City, in connection with construction occurring in the right-of-way, if such occurrence happens during a City business day. If the occurrence happens on a day other than a City business day, notification must be given by 9:00 a.m. on the first City business day following the occurrence.

Sec. 90-121. Restoration of property and pavement.

- (a) Surface restoration shall be constructed as designated on the right-of-way permit and as required pursuant to the City construction standards. A right-of-way user shall notify the Director not less than two (2) hours prior to the placement of surface restoration material. Failure to do so may result in the suspension of construction and the removal of any surface material placed without prior approval.
- (b) A right-of-way user shall be responsible for having all abandoned facilities removed within seven (7) days after their abandonment unless otherwise extended by the Director or unless the Director determines that such abandoned facilities should not be removed upon request.

(c) During a cessation in the construction or after completion of the construction, and in order to avoid safety hazards to vehicles and pedestrian traffic, all street and sidewalk construction shall be restored by a right-of-way user within a reasonable period of time to be determined by the Director.

(d) A right-of-way user shall restore property damaged or destroyed by construction on or adjacent to the right-of-way to a condition that is as good as or better than the pre-existing condition of the right-of-way or adjacent property, as determined by the Director. Streets shall be restored based on their Pavement Condition Index ("PCI") prior to construction, as determined by the Director during the application process, as follows:

- (1) PCI of 0-50. Excavations in streets and/or rights of way with PCI values of 50 or less shall be deemed to be excavations in streets with nominal loss of life. The right-of-way user shall promptly repair the trench envelope and surface in accordance with specifications set forth in the UECM.
- (2) PCI of 51-85. In the event of an excavation in a street or right-of-way having a PCI of 51-85, the right-of-way user shall promptly repair the trench envelope and surface, including pavement and foundation, to the same condition, or better, than existed before the commencement of the work in accordance with the specifications set forth in the UECM. In the event of failure of the repair during the guaranty period, the right-of-way user shall reimburse the City for its pavement restoration cost.
- (3) PCI of 86-100. Excavations in streets and/or right-of-way with PCI values of 86 or greater shall be deemed one hundred (100) percent loss of pavement life. These excavations require block to block and curb to curb pavement reconstruction. Use of a hot mix asphalt repaving process is an option with approval of the Director. In the event of any trench failure in the street or right-of-way during the guaranty period, the contractor shall reimburse the City for its costs to repair the failure. Additionally, in the event of such failure, the right-of-way user shall within forty-eight (48) hours repair the subject trench envelope if required by the Director.

(e) Restoration shall be completed in a timely manner as specified by schedules prepared and provided by the Director. Right-of-way users shall be fully responsible for the performance of all trenches or other restorative work for a period not to exceed twenty-four (24) months from the completion of the work and/or inspection by the Director. Any trench or other restorative failures resulting from any work authorized by this article shall be immediately repaired upon notification by the City and are subject to inspection and approval by the City.

(f) All repairs to right-of-way of any PCI are guaranteed by the right-of-way user making the repair to be made for the life of the street. The life of the street for these purposes is defined to be until such time as that certain street or right-of-

way is repaved by the City or another, in the same location as the excavation, or until such time as the PCI Index of such street or right-of-way drops to below 50.

Sec. 90-122. Requirement to relocate equipment for City public works projects.

Any user of the City right-of-way shall be required to relocate and bear the cost of relocating their equipment to accommodate City public works projects. Such relocation shall be completed within thirty (30) days upon notice by the City of the requirement for such relocation.

Sec. 90-123. Exemptions for maintenance of sewer laterals by single family residents.

Residential customers issued permits to excavate in the right-of-way for the maintenance of sewer laterals for single family or duplex residential properties shall not be subject to any fees required by this chapter and shall only be required to restore a street or right-of-way to a maximum PCI value of 85, even if the PCI value is determined to be higher than 85.”

SECTION TWO. The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the provisions adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, this Ordinance takes precedence over any other existing City ordinance which may contain provisions that are less restrictive than those specified in this Article. However, nothing contained in this Article mitigates, interferes with, alters, or repeals any provision of any other ordinance of the City not in conflict with the provisions of this Article.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for

the length of time prescribed by the law as an alternative method of publication.

SECTION SIX. This Ordinance shall become effective as of March 29, 2023.

PASSED AND APPROVED ON FIRST READING, this the 28 day of February, A.D., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 14 of MARCH, A.D., 2023.


Judy Eychner, Mayor

ATTEST:


Shelley McElhannon, City Secretary

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

The Kerrville

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1045 - Special Notes
1050 - Foreclosure Notices
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1065 - Probate
1075 - Bulletin Board
1080 - Political Notices
2003 - Open House
2005 - Homes for Sale
2010 - Homes For Sale/Owner
2020 - Lots/Acreages
2025 - Condos/Townhomes
2030 - Resort/Waterfront
2035 - Mobile Homes
2045 - Farms/Ranches
2050 - Investment Property
2055 - Commercial Real Estate
2060 - Real Estate Services
2065 - Real Estate Wanted
2505 - Furnished Houses
2510 - Unfurnished Houses
2515 - Want to Rent

Category Index + more

2520 - Condos/Townhomes
2525 - Furnished Apartments
2530 - Unfurnished Apartments
2535 - Duplexes for Rent
2540 - Roommate Wanted
2550 - Mobile Home Rentals
2555 - Mobile Home Lots
2560 - Lots/Acreages for Rent
2570 - Commercial Property
2575 - Office Space
2580 - Misc. For Rent
3020 - Automotive Services
3030 - Clerical/Administrative
3035 - Construction
3115 - Full-time Employment
3120 - Part-time Employment
3140 - Professional Services
3150 - Real Estate
3505 - Childcare Providers
3515 - Domestic Services
3520 - Work Wanted
3605 - Business Opportunity

3610 - Work from Home
3615 - Business for Sale
3620 - Business Wanted
3635 - Loans
3640 - Investments
3645 - Tax Services
4005 - Classified Attic
4010 - Antiques/Collectibles
4015 - Auctions/Estate Sales
4020 - Resale/Flea Markets
4025 - Appliances
4030 - Furniture/Household
4035 - Electronics
4040 - Jewelry
4045 - Lawn/Garden
4050 - Tools
4055 - Musical
4060 - Bicycles
4065 - Sports/Exercise Equip.
4070 - Spt. Goods Guns/Ammo
4075 - Portable Buildings
4080 - Building Materials
4090 - Firewood
4100 - Medical Equipment
4105 - Misc for Sale

4110 - Wanted to Buy/Trade
4501 - Garage/Estate Sales
5015 - Livestock
5020 - Farm Equipment/Trailers
5025 - Farm Services
5040 - Tractors For Sale
5050 - Machinery For Sale
5065 - Farm/Ranch Supplies
5100 - Poultry
5505 - Dogs
5510 - Cats
5515 - Misc. Pets
5520 - Pet Supplies/Services
6005 - Motorcycles
6010 - ATVs/Golf Carts
6015 - Boats/Marine
6020 - RVs/Travel Trls/Campers
6025 - Hunting Leases
6030 - RVs/Rent/Lease
6505 - Cars
6510 - Trucks
6520 - Jeeps
6525 - SUVs
6530 - Trailers
6550 - Want to Buy

CLASSIFIED LINERS AND SERVICE DIRECTORY ADS will need to be prepaid

Liner & Display Deadlines:

- Tuesday Deadline | Monday 10:30 am
- Thursday Deadline | Wednesday 10:30 am
- Weekend Deadline | Friday 10:30 am



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Public Notice

Public Notice

Full-time
Employment

Full-time
Employment

Full-time
Employment

Full-time
Employment

Ordinance No. 2023-09

Ordinance No. 2023-09. An Ordinance amending Chapter 90 of the Code of Ordinances, City of Kerrville, Texas, titled "Streets, Sidewalks, and Other Public Places"; by adding a new Article titled "Right-Of-Way Management", to create regulations, including a permit requirement, for construction, maintenance, and repair work within the City's rights-of-way; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; and providing other matters relating to the subject.

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Public Notice of
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Tabulating Equipment
(TEC 127.096)
AVISO PUBLICO DE
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PARA TABULAR
AUTOMATICAMENTE

Notice is hereby given that the automatic tabulating equipment that will be used in the City of Kerrville, Kerrville ISD District 2, Ingram ISD and Hunt ISD Bond Elections held on May 6, 2023 will be tested on March 21, 2023

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