

Chapter 33 - Public Right-of-Way

- 4.1 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:
- 1) "Department" means the Department of Public Works of the City.
 - 2) "Director" means the Director of Public Works of the City or any person who holds the position as head of the Public Works Department.
 - 3) "Superintendent" means the Superintendent of Streets or the designated representative.
 - 4) "City Engineer" means the City Engineer or designated representative.
 - 5) "Street" means the paved or designated area for vehicular travel within the right of way.
 - 6) "Right of Way" (R.O.W.) means the land owned or controlled by the City, or other governmental agency or entity that has been designated for public use which shall include but not be limited to streets, curbs, sidewalks, shoulders, utilities, landscape areas and other public uses.
 - 7) "Facility" means any man-made objects.
- 4.2 Damage and Obstruction Prohibited. No person shall make any excavation or fill in, or cause any damage to any R.O.W. in the City, except under the conditions and in the manner permitted in this Chapter. No person shall place any article, thing or obstruction in the R.O.W., except under the conditions used in the manner permitted in this Chapter, but this provision shall not prohibit temporary obstructions as incidental to the expeditious movement of articles and things to and from abutting premises, nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.
- 4.3 Permits. Where permits are authorized in this Chapter, they shall be obtained upon application to the City Engineer upon such forms as he shall prescribe. Permit fees will be established by resolution by the City Council. Such permit shall be revocable by the City Engineer for failure to comply with this Chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the City Engineer or the duly authorized representative, and shall be valid only for the period of time endorsed thereon.

Application for a permit under the provisions of this Chapter is an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the City, repair all damage done to the street surface and installations on, over, or within such street, including trees, and protect and save harmless the City from all damages or actions at law that may arise or may be brought on account of injury to person or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be for the amounts established by the City Manager.

A properly executed certificate of insurance containing evidence that the pertinent policy of insurance or endorsement applies to the provisions under which the permit is issued, and approved as to form by the City Attorney, shall be filed with the City Clerk.

Where cash deposits are required with the application for any permit, each deposit shall be in the amount as determined by the City Engineer, and the deposit shall be used to defray all expenses to the City arising out of the granting of the permit and work done under or in connection with the permit. Six (6) months after acceptance of the work done under the permit, by the City Engineer, any balance of each cash deposit unexpended shall be refunded. In any case, where the deposit does not cover all costs and expenses of the City, the deficit shall be paid by the applicant.

- 4.4 R.O.W. Operations. No person, public utility company, franchisee or licensee shall conduct any construction, repair or maintenance operations in the R.O.W. without first obtaining a written permit or annual permit from the City Engineer. No permit shall be granted until the applicant has filed a liability insurance policy as required by this Chapter and posted a cash deposit to defray the cost of repairing all damage done to the street surface and installation on, over, or within the street, as estimated by the City Engineer. A permit shall expire after 30 days or the date specified on the permit unless work has commenced on the project covered by the permit.

Annual permits may be issued, for emergency repairs, maintenance, small alterations and small service connections, at the discretion of the City Engineer, with permit fees and cash deposits established by resolution of the City Council and with liability insurance policies in amounts established by the City Manager.

Permits for excavation of less than six inches are not required if located outside of the street and are for the purpose of restoration and/or repair to landscaping or irrigation systems.

Routine operations conducted by a public utility company, franchisee, or licensee will not require a permit if no excavation is made in the right-of-way.

- 4.5 Emergency Operations. Permits are not required for emergency work, provided that an annual permit has been obtained and that the City Engineer is notified of the location and nature of the emergency work on the following business day and the provisions of this Chapter will be complied with. However, the City Engineer will review each emergency operation to assure such operations are not casual. Upon such review, the City Engineer may require a public utility, franchisee or licensee to get verbal permission before doing any work in a right-of-way if the City Engineer finds that use of this section is not being used for bona fide emergencies.
- 4.6 Backfilling. All trenches in a public R.O.W., except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this Chapter. Any settlement shall be corrected within eight (8) hours after notification to do so.
- 4.7 Underground Structures. All new or upgraded underground structures located within the public R.O.W. shall conform to the City Engineering Design Standards and Specifications or to the standards and specifications prescribed or approved by the City Engineer.
- 4.8 Utility Poles and Structures. When utility poles, overhead equipment and structures are permitted to be placed in the public R.O.W., placement shall be as prescribed by the City Engineer. Such poles, overhead equipment and structures shall be removed, relocated or

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placed underground as the City Engineer shall direct when such facilities need to be relocated as a result of new road construction/road widening or other similar project as required by the rules of the Michigan Public Service Commission and Chapter 21 of Troy Municipal Codes.

- 4.8a Mailbox Supports. Mailbox supports may be placed in the R.O.W. and shall not be considered obstructions unless any portion of the mailbox or mailbox support extends over any portion of the travelled street or curb. If any portion of a mailbox or mailbox support extends over the travelled street or curb, the mailbox or mailbox support shall be considered an obstruction and prohibited under 4.2 of Chapter 33.
- 4.9 Maintenance of Facilities in Public R.O.W.. Every owner of, and every person in control of, any facility located in the public R.O.W. shall maintain the facilities in good repair and condition at all times and shall indemnify and save harmless the City against all damages or actions of law that may arise or be brought by reason of such facilities being located and operated within public right-of-way.
- 4.10 R.O.W. Improvements. Whenever the City decides to make improvements to the R.O.W. involving the relocation of facilities belonging to public utilities, licensees and other franchisees, the City Engineer shall, not less than 120 days prior to commencement of construction, serve notice upon all public utilities, requiring them to install or relocate all necessary underground work in advance of the R.O.W. improvement.
- 4.11 Sewer and Water Connections. When paving or resurfacing shall have been ordered or declared necessary by the City Council, such sewer and water connections as are necessary, shall be installed in advance of such paving or resurfacing, and the cost shall be charged against the premises adjacent, or to be served, and against the owner of such premises. Where such paving or resurfacing is financed in whole or in part by special assessment, the cost of such sewer and water connections may be chargeable against the premises served or adjacent, as a part of the special assessment for such paving or resurfacing. Where such paving or resurfacing is financed other than by special assessment, the cost of the sewer and water connections so installed, shall be a lien on the premises adjacent, or to be served, and shall be collected as provided for assessments on single lots pursuant to the provisions of the City Charter.
- 4.12 Determination of Necessity. The necessity for sewer and water connections shall be determined by the Director which determination shall be based upon the size, shape, and area of each abutting lot or parcel of land, the lawful use of such land under the zoning regulations of the City, the character of the locality and the probable future development of each abutting lot or parcel of land. The Director shall give written notice of the intention to install such sewer and water connections and to charge the cost to the premises, to each owner of land abutting the street, to be furnished with such connections, as shown by the records of the City Assessor in accordance with this Code. Any owner objecting to the installation of any sewer or water connection, shall file his objections in writing within seven (7) days after service of the notice, with the Director who shall, after considering the objection made in writing, make a final determination of the sewer and water connections to be installed.

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- 4.13 Prohibited Openings or Excavations. No permit to make any opening or excavation in or under a paved street, except for emergency repairs indicated in Section 4.5, shall be granted to any person within a period of two (2) years after the completion of the paving or resurfacing. If a street opening is necessary as a public safety measure, the City Engineer may suspend the operation of this section, as to such street opening.
- 4.14 Utility Placement Zone. A designated zone for the placement of new or relocated underground facilities, such as gas, electric, communication and other franchised or licensed facilities shall be determined by the City Engineer. This area shall be a nine (9) foot horizontally measured space at the outside edge of the right of way. This zone shall not be located on the side of the street where a water main is situated. If water mains are on both sides of the street, the south or east side of the street is to be used. If due to technical reasons the south or east side can not be used nor is the placement zone practical, the placement shall be at the discretion of the City Engineer. In all cases the utilities are to be placed within the designated zone unless authorized by the City Engineer. The City Engineer shall expand the utility placement zone, when necessary, to provide adequate space for placement. Utilities constructed of non-metallic material are required to have a traceable metallic wrap or accompanying wire for the purpose of tracing and locating with conventional locating equipment.

When placed in the R.O.W., utilities or other franchised or licensed facilities constructed of material susceptible to breakage (i.e. fiber optic, wire, plastic line) must be encased in a protective plastic conduit, when determined by the City Engineer.

Plastic gas lines are excluded from the requirement for a protective plastic conduit.

Except for emergency repairs indicated in Section 4.5, no opening or excavation may take place in the utility placement zone for a period of 18 months following construction of new pavement or new utility in the zone. The City Manager may waive this time period if in his opinion it is in the best interests of the City.

- 4.15 Road Oiling and Dust Control. No person shall apply any liquid dust control material or other liquid surface treatment to any street without first obtaining a permit for said work as required by this Chapter. The permit fee shall be as established by resolution of the City Council.
- 4.16 Curb Cuts. No opening in or through any street curb shall be made without first obtaining a written permit from the City Engineer. Driveway approaches, including curb cuts and sidewalk driveway crossings to provide access to private property, shall comply with the following, except planned commercial and industrial buildings which require separate site plan approval per Chapter 39 of this Code.
- 1) No single curb cut or driveway approach shall exceed eighty (80) feet in width, nor be less than twelve (12) feet in width, except, where joint driveway openings are permitted on either side of a common property line, the maximum curb cut shall be forty (40) feet per lot.

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- 2) The minimum distance between any curb cut or driveway approach and a public crosswalk shall be five (5) feet.
- 3) Where sidewalks are required, no single sidewalk driveway approach crossing shall exceed thirty (30) feet in width.
- 4) The maximum number of linear feet of sidewalk driveway approach crossing permitted for any lot, parcel of land, business or enterprise, shall be forty-five (45%) per cent of the total abutting street frontage up to and including two hundred (200) lineal feet of street frontage plus twenty (20%) per cent of the lineal feet of street frontage in excess of two hundred (200) feet.
- 5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, underground structures, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the City.
- 6) All new driveway approaches along paved streets shall be paved between the curb cut and the property line with concrete or asphalt in accordance with regulations established by the City Engineer.
- 7) All construction shall be in accordance with plans and specifications approved by the City Engineer.

OBSTRUCTIONS

- 4.17 **Obstructions.** No person shall occupy any R.O.W. with any materials or machinery incidental to the construction, maintenance, demolition or repair of any facilities adjacent to the R.O.W., or for any other purpose, without first obtaining a permit or an annual permit from the City Engineer and posting a cash deposit and filing an insurance policy as required by this Chapter.
- 4.18 **Pedestrian Passage.** At least five (5) feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and if the operations are such that free passageway is impracticable, a temporary plank sidewalk, meeting the approval of the City Engineer, and in accordance with Chapter 79 of this code, where applicable, shall be provided around such obstruction.

SAFETY REQUIREMENTS

- 4.19 **Safeguards.** All temporary openings, excavations and obstructions located in a street or within twelve (12) feet of a street shall be provided with traffic control devices in conformance with the Michigan Manual of Uniform Traffic Control Devices. All temporary openings, excavations and obstructions located in a sidewalk or driveway approach shall be surrounded with lighted barricades. All unattended openings and excavations, located anywhere in public R.O.W., greater than five (5) feet in depth shall be completely surrounded by fencing, securely mounted in place as directed by the City Engineer.

- 4.20 Shoring Excavations. All openings and excavations shall, where necessary, be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which may injure the thoroughfare or sub-surface structure of the street.

UNLOADING CONSTRUCTION EQUIPMENT

- 4.21 Unloading Construction Equipment. No person shall unload from any vehicle or trailer any power shovel, ditchdigger, trencher, bulldozer, tractor, or any similar construction or excavating equipment having a weight of one ton or more or which moves about by any means other than rubber tires, onto or upon any hard-surfaced street without first obtaining a permit therefor from the Street Superintendent and posting a cash deposit. Such deposit shall be available for the repair and reconstruction of any street or its appurtenances damaged as a result of the permitted operation.

ADDITIONAL REGULATIONS

- 4.22 Additional Regulations. The City Manager may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions, and house moving, which shall be subject to the approval of the City Council.
- 4.23 Removal of Encroachment. Encroachments and obstructions in the R.O.W. may be removed and excavations refilled by the City. The expense of such removal or refilling shall be charged to the abutting land owner when made or permitted by them or suffered to remain by them, otherwise than in accordance with the terms and conditions of this Chapter. The procedure for collection of such expenses shall be as prescribed in the City Charter.
- 4.24 Temporary R.O.W. Closings. The Director shall have authority to temporarily close any portion of the R.O.W., when any portion is deemed to be unsafe or temporarily unsuitable for use for any reason. The Director shall cause suitable barriers and signs to be erected in R.O.W. the indicating that any portion of the R.O.W. is closed to public travel. When any street or portion shall have been closed to public travel, no person shall drive any vehicle upon or over the R.O.W., or portion, except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the Director.