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Chapter 26 STREETS AND PUBLIC WORKS

ARTICLE I. IN GENERAL

Sec. 26-1. Trees and shrubbery to be trimmed.

The owner of any premises abutting on any street of this city shall trim all trees and shrubbery growing in the parking, between the sidewalks and the roadway, of any such street, and all trees and shrubbery growing on any port of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage, view and travel along the streets, sidewalks, and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and

shrubby in the same manner as hereinbefore required of the owner. Such trees and shrubby shall be trimmed so that the lowest branches or foliage shall not be lower than 14 feet above the roadway of a street or alley, nor lower than eight feet above the sidewalk.

(Code 1984, § 14-101)

Sec. 26-2. Penalty for violation of section 26-1.

Any owner or occupant who fails, refuses, or neglects to trim trees and shrubby as provided in section 26-1, after receiving five days' notice from the mayor, or his duly authorized representative, to do so, is guilty of an offense against the city. Every day that the owner or occupant fails, refuses, or neglects to trim such trees or shrubby, after the expiration of the five days' notice, shall be a separate offense.

(Code 1984, § 14-102)

Sec. 26-3. Unlawful to injure trees and shrubby.

It is unlawful for any person to injure any tree or shrubby on a street or alley in the city. This section shall not prohibit the lawful and proper care and removal of such trees and shrubby.

(Code 1984, § 14-103)

Sec. 26-4. Business use of streets prohibited.

It is unlawful for any person, firm, or corporation to construct, erect, place, operate, maintain, or permit to exist any ice box, ice dock, gasoline pump, gasoline storage reservoir, tire rack, tire tools or equipment, water hose connection, any mercantile business, or any tools, stand, equipment, merchandise, or appurtenances thereof, aerials, poles, or wires therefor, whether permanent or temporary, or any other obstruction, upon any part of any street, alley, boulevard, parkway, curbing, or parking within the city.

(Code 1984, § 14-104)

Sec. 26-5. Unlawful to obstruct unduly sidewalks and streets.

It is unlawful for any person to use or obstruct the sidewalks of the city in any manner so as to interfere unduly with pedestrian traffic thereon, or to use or obstruct the streets and alleys of the city in any manner so as to interfere unduly with lawful traffic and parking thereon.

(Code 1984, § 14-105)

Sec. 26-6. Unlawful to deposit trash upon streets or sidewalks.

It is unlawful for any person to deposit, throw, or sweep into or upon a street, alley, parking, or sidewalk of the city any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes, or other refuse of any kind.

(Code 1984, § 14-106)

Sec. 26-7. Unlawful to play in streets.

It is unlawful for any person to play in or upon streets and alleys of the city, except as may be otherwise authorized by the city.

(Code 1984, § 14-107)

Sec. 26-8. Water from filling stations and other businesses.

It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease, or other fluid to flow or drain into, upon, over, or across any sidewalk, parking, street, alley, or other public way.

(Code 1984, § 14-108)

Sec. 26-9. Sidewalk or sidewalk area not to become a hazard.

It is unlawful for the owner or occupant of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk or sidewalk area.

(Code 1984, § 14-109)

Sec. 26-10. Cutting curbs or city streets.

No person or entity, other than a city employee acting in the scope and course of their employment, shall physically cut or alter a curb, street, avenue, alley, sidewalk, pavement, or other public ground unless such person or entity has fully complied with the provisions of article II of this chapter.

(Ord. No. 12-071601, § 1)

Sec. 26-11. Penalty.

Any person violating the provisions hereof shall be deemed guilty of misdemeanor and upon conviction thereof shall be fined as provided in section 1-8.

(Code 1984, § 14-111)

Secs. 26-12—26-40. Reserved.

ARTICLE II. EXCAVATIONS IN THE PUBLIC WAY¹

Sec. 26-41. 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.

Alley means a right-of-way dedicated to public use, which gives a secondary means of vehicular access to the rear or side of properties otherwise abutting a street, and which may be used for public utility purposes and is not intended for general traffic circulation.

Easement means a grant, by a property owner to the public or to a private person/entity, of the use of land for specific purposes.

¹Editor's note(s)—Ord. No. 169-041822, §§ I—IX, adopted April 18, 2022, in effect repealed art. II, §§ 26-41—26-47, and enacted a new art. II as set out herein and later amended. Former art. II pertained to excavations in streets and sidewalks and derived from 1984 Code § 14-201—14-207; an Ord. adopted December 1, 1980; Ord. No. 13-071601; Ord. No. 14-071601; Ord. No. 15-071601; Ord. No. 16-071601; Ord. No. 17-071601.

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MUTCD means the current edition of the Manual of Uniform Traffic Control Devices, as published by the U.S. Department of Transportation, Federal Highway Administration.

Obstruct means to place any physical object or material in the public way in a manner that stops, hinders, disrupts, or otherwise interferes with free and open passage over a specific area or part of the right-of-way. The term does not include the legal parking of a vehicle.

Public way means the surface, the airspace above, and the area below any public street, highway, parkway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, other right-of-way, easement, or similar property in which the city now or hereafter holds interest or a maintenance responsibility which, consistent with the purposes for which it was dedicated, may be used for the constructing, installing, erecting, operating, and maintaining facilities, items or structure.

Public way occupant means a person or entity that owns, manages, operates, controls, or has the ability to directly affect a facility or infrastructure located in the public way.

Public way permit means an authorization to work in or obstruct right-of-way or easements at a specific place and time, for the purposes of installing, constructing, erecting or maintaining facilities, items or structures within a specified portion of a right-of-way or easement.

Traveling surface means that portion of the public way that provides designated travel area for all transportation modes, including but not limited to pedestrian, biking, vehicle, freight, and parking.

Work means to construct, install, erect, operate, modify, maintain any facilities, items or structures in the public way; or to cut, alter, mutilate, obstruct or change in any manner for any purpose any paved or traveled portion of any street or alley, or any curb, gutter, catch basin or any other appurtenance of any street or alley or any sidewalk in the city or in any way change any existing right-of-way or public easement.

(Ord. No. 169-041822, § I, 4-18-2022)

Sec. 26-42. Permit required.

- (a) A permit is required for any work in any public way. Work requiring permits includes, but is not limited to:
- (1) Any cut of public pavement facilities including streets, alleys, trails or sidewalks.
 - (2) Any excavation in public right-of-way.
 - (3) Any obstruction of the travelling surface,
 - (4) Any drilling, including pole installation,
 - (5) Trenchless installation of any facility,
 - (6) Installation of overhead lines,
 - (7) Placement or erection of any item within the confines of the public way.
 - (8) Landscaping requiring excavation.
- (b) The following work does not require a permit, provided that when a street or lane closure will occur, a permit for such a closure shall still be required:
- (1) Obstruction of traveling surfaces meeting the following conditions:
 - a. Obstruction is limited to a local street or sidewalk that only abuts single or two-family residential zoned property;

- b. No excavation or earth change is required;
 - c. No facilities will be disturbed;
 - d. Obstruction is expected to be less than one hour per MUTCD 6G.02; and
 - e. Flaggers and advanced warning signs shall be used as required by MUTCD 6E.01.
- (2) Normal property maintenance, such as mowing and trimming of public way adjacent to private property that does not impact the public way.
- (3) Work performed by employees of the city and/or contractors hired by the city when performing work in the course of their authorized employment.
- (c) Public way permits will be issued only to individuals or companies meeting the requirements of this article and no permits shall be issued to any person who shall fail, neglect or refuse to correct previous defective work, or who has outstanding balances due to the city for previous permits, utilities or other services.

(Ord. No. 169-041822, § II, 4-18-2022)

Sec. 26-43. Closing streets.

The mayor or his or her designee shall have authority to close any street, alley, or other public place against traffic or travel for such time as shall be deemed necessary for the proper protection of the public and security of the improvements. In such event, traffic may be entirely restricted or limited to definite classes.

(Ord. No. 169-041822, § III, 4-18-2022)

Sec. 26-44. Traffic control and warning signals required.

The permit holder shall be responsible for maintaining compliance with traffic control plans, excavation safety plans, and other work site safety practices around such work in such a manner as to protect pedestrians, animals, and vehicles. The permit holder shall provide, at a minimum, all traffic controls in acceptable condition specified for the circumstances by the most recent revision of MUTCD. The permit holder shall inspect and maintain traffic control devices daily throughout the permit period.

(Ord. No. 169-041822, § IV, 4-18-2022)

Sec. 26-45. Placement of materials; obstruction of traffic.

No materials or equipment shall be placed on any sidewalk or public way unless specifically authorized on the permit issued pursuant to the provisions of this article. All operations shall be so handled as to provide minimum hazard to the public and minimum obstruction to traffic. All rubbish, equipment and unused materials and supplies shall be removed by the contractor before work is opened to traffic. New facilities or relocated existing facilities shall be located so as to not interfere with existing facilities, the usual traffic patterns, or with the rights of adjacent property owners.

(Ord. No. 169-041822, § V, 4-18-2022)

Sec. 26-46. Required application, fee, bond and insurance.

- (a) It shall be unlawful for any person to cut, alter, mutilate or change in any manner for any purpose any paved or traveled portion of any street or alley, or any curb, gutter, catch basin or any other appurtenance of any

street or alley or any sidewalk in the city or in any way change any existing right-of-way without a permit issued by the city.

- (b) A contractor shall complete a license application annually, pay required fees, and post bonds, all in amounts as set by resolution of the city council.
- (c) A contractor shall also provide proof of general liability insurance in an amount sufficient to fully indemnify the city in case of personal injury or property damage caused by the contractor. The city shall be named an additional insured on the general liability policy.
- (d) This permit shall not be transferred, assigned, or disposed of by sale, lease, merger, consolidation or other act of the contractor, by operation of law or otherwise.

(Ord. No. 169-041822, § VI, 4-18-2022)

Sec. 26-47. Permit application.

All applicants doing work within the public way shall first apply for a public way permit by submitting the following: a completed application form, fees established by city council, the dates of the work proposed start and stop times, and any proposal to temporarily reopen any roadway for any period, lane closure requests, names of subcontractors working on the proposed project under the applicant's responsibility and authority, documentation of insurance coverage, and traffic control plans.

(Ord. No. 169-041822, § VII, 4-18-2022)

Sec. 26-48. Standard permit conditions.

All work shall be conducted in accordance with standards established by the city. All restorative work and work that exposes city-owned facilities shall be performed by the permit holder under the supervision of the city. All permit holders shall provide notices to all affected utilities and customers of any interruption of service or of any access across their property. Arrangements for utility service interruptions shall be made in accordance with each utility's established procedure.

(Ord. No. 169-041822, § VIII, 4-18-2022)

Sec. 26-49. Permit revocation.

The city may revoke a public way permit if the city council determines that the conditions of the permit are not being met or if the conditions for which the permit was initially issued have substantially changed creating increased hazard to the travelling public or to public or private property.

(Ord. No. 169-041822, § IX, 4-18-2022)

Secs. 26-50—26-67. Reserved.

ARTICLE III. SIDEWALKS

Sec. 26-68. Sidewalk construction grades.

All sidewalks built or constructed in streets in the city shall be built in accordance with the grades as shown on sidewalks grade profiles prepared by city's constructing and supervising engineers and which are hereby adopted and approved by the mayor and city council.

(Prior Code, ch. 27; Code 1984, § 14-301)

Sec. 26-69. Specifications for streets and sidewalks.

Sidewalks constructed on any street, avenue, alley or public ground in the city and streets shall be constructed according to specifications hereby adopted by the city and incorporated herein by reference: Standard Specifications for Highway Construction issued by the state department of transportation, latest edition thereof.

(Prior Code, ch. 27, as amended; Code 1984, § 14-302)

Sec. 26-70. Permit required.

Before the sidewalk contractor or individual shall commence the construction of any sidewalk on the street, alley, avenue, or public ground in the city, he shall first make application to the city clerk, in writing, for a special permit to do the work. Before special permit will be issued, he shall deposit with the city clerk, a sum as set by the council from time to time by motion or resolution to cover the cost of giving the grade and inspecting the work. The contractor or individual shall notify the city clerk when the work is to be started. All sidewalks shall be built and constructed under the inspection of an engineer appointed by the city.

(Prior Code, ch. 27; Code 1984, § 14-303)

Sec. 26-71. Penalty.

Any person, persons, firm or corporation violating any of the provisions of this article shall be guilty of a misdemeanor and shall be fined as provided in section 1-8.

(Prior Code, ch. 27; Code 1984, § 14-304)

Secs. 26-72—26-100. Reserved.

ARTICLE IV. STREET NUMBERING

Sec. 26-101. Division streets designated.

For the purpose of establishing a system of numbering business houses and residences in the city there shall be established two division streets as follows: Main Street, which shall divide the city east and west, and Sixth Avenue, which shall divide the city north and south, and all streets now named and named in the future shall be made to carry a prefix, north or south, east or west, with reference to these dividing streets.

(Prior Code, art. VIII; Code 1984, § 14-401)

Sec. 26-102. Block numbers extending out.

Numbering of business houses and residences in the city shall start from the intersection of these dividing streets. The first block in each direction shall be designated the 100 block, the second the 200 block, and continue to the limits of the city.

(Prior Code, art. VIII; Code 1984, § 14-402)

Sec. 26-103. Assignment of numbers in blocks.

Business houses and residences will be assigned numbers for each 25 feet, fronting on the various streets and avenues. Business houses occupying more than one unit of 25 feet shall carry numbers for each entrance, except that a residence will be designated by only one number, unless an apartment or duplex house. Residences that are placed on lots crossways, and fronting the side streets, shall be numbered with reference to the way they front.

(Prior Code, art. VIII; Code 1984, § 14-403)

Sec. 26-104. Type letters.

Businesses and residences shall be numbered and placed so that the numbers may be easily seen from the streets.

(Prior Code, art. VIII; Code 1984, § 14-404)

Sec. 26-105. Number expense of owner.

The property owners shall pay the cost of numbering their property. Owners are required to have their property numbered.

(Prior Code, art. VIII; Code 1984, § 14-405)

Sec. 26-106. Planning commission to assign numbers.

It is the duty of the city planning commission to assign all business and residential numbers.

(Code 1984, § 14-406)

Secs. 26-107—22-200. Reserved.

ARTICLE V. RIGHT-OF-WAY OCCUPANCY MANAGEMENT

Sec. 26-201. Intent, purpose, and scope.

- (a) The intent and purpose of this article is to provide for the public health, safety and welfare of the citizens of the city, as well as to ensure the structural integrity of the city's streets and related infrastructure, to minimize the disruption to the traveling public, and to ensure costs incurred by the city to acquire, maintain and manage the right-of-way are properly allocated among the various users of the right-of-way. This article establishes standards for authorizing and managing the placement of facilities in the right-of-way, performing installation, maintenance and other work in the right-of-way, and appropriately recovering costs incurred by the city related to such activities.
- (b) The intent of this article is also to charge those persons that own, manage, operate or control facilities located in the right-of-way a fee based upon the proportion of facilities they have in the right-of-way to the amount of costs the city incurs in acquiring and maintaining the right-of-way.
- (c) This article shall apply to all right-of-way occupants, whether under the authority of a franchise, permit, license or any other type of grant. If any provision of this article is inconsistent with or in conflict with any provision of any public service franchise, license or permit for use the right-of-way granted by the city prior

to the effective date of this article, the provisions of the public service franchise, license or permit shall prevail as to all matters and questions arising out of the same subject matter.

(d) This article shall not apply to any facilities owned by the city or the city municipal authority.

(Ord. No. 168-041822, § I, 4-18-2022)

Sec. 26-202. Definitions.

As used in this article, the terms, phrases, words and abbreviations shall have the meanings provided in this section, unless otherwise expressly stated. Additionally, unless otherwise expressly stated, words not defined in this article shall be given the meaning prescribed in Title 47 of the United States Code. References to laws, ordinances or regulations shall include laws, ordinances and regulations now in force or as subsequently amended.

Communications service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Communication service shall also include, but not necessarily be limited to, basic local exchange carrier service, enhanced service, digital transmission service, non-digital point-to-point or private line service, and personal wireless service. Communication service does not include cable service.

Facility or facilities means all or any part of a collective system of tangible things, including but not limited to pipelines, conduits, copper or fiber optic cabling, pedestals, guy wires, anchors, vaults, junction boxes, utility poles and electrical wiring, that is partly or entirely located in the right-of-way and is used for the transmission of goods or services, including but not limited to natural gas, steam, chilled or potable water, electricity, video service or telecommunications service, regardless of whether the services are provided for a fee, or provided to the general public, to a limited group of private users, or solely for the benefit of the owner of the system.

Occupancy permit means a grant of authority from the city to occupy the right-of-way for the purposes of placing, owning, operating or managing facilities in the right-of-way.

Occupancy permit holder means any person holding an occupancy permit.

Permittee means any person to whom a ROW construction permit has been issued.

Right-of-way occupancy fee means an annual charge that recovers an apportioned share of the actual costs to the city of acquiring and maintaining the right-of-way.

Right-of-way construction permit or ROW construction permit means an authorization to excavate in or obstruct right-of-way at a specific place and time, for the purposes of installing, constructing or maintaining facilities within a specified portion of the right-of-way.

Right-of-way occupant or ROW occupant means a person that owns, manages, operates, controls or has the ability to directly affect the facilities located in the right-of-way.

Right-of-way or ROW means the surface, the airspace above ground and the area below the surface of any public street, highway, parkway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the city now or subsequently holds a property interest and/or a maintenance responsibility which, consistent with the purposes for which it was dedicated, may be used for the purpose of constructing, installing, operating and maintaining facilities of any kind, including but not limited to conduits, pipelines, cables, utility poles, junction boxes and duct banks. Right-of-way does not include buildings, parks or other property owned or leased by the city, its trusts or authorities.

Small cell facility means a low-powered wireless telecommunications base station which functions much in the same way as larger cells in a wide-area, mobile wireless network that are typically installed relatively high on a telecommunications tower, to provide signal coverage to a large geographic area. Small cells facilities cover a

smaller, targeted, localized area to provide connectivity to wireless network subscribers in areas that typically present capacity and coverage challenges to traditional wide-area wireless networks.

Traveling surface means that portion of the right-of-way, paved with either asphalt or concrete, or other material designed to support vehicular traffic, lying between those portions of the right-of-way that are unpaved.

(Ord. No. 168-041822, § II, 4-18-2022)

Sec. 26-203. Authority to occupy the right-of-way.

- (a) No person subject to this article shall construct, install, operate or maintain any facilities in the right-of-way without first obtaining proper authorization, as described in this section.
- (b) Unless otherwise provided by law, franchise or agreement, every ROW occupant with more than 200 linear feet of facilities, must register with the city, and apply for an occupancy permit.
- (c) No person shall obstruct the traveling surface or construct more than 200 linear feet of new facilities or replace or do maintenance work on more than 500 feet of facilities or cut the pavement or put facilities under the pavement or any new pole installation in any defined right-of-way, main, without first obtaining a right-of-way construction permit. This section does not apply to any governmental unit or entity engaged in the official act of maintaining any element of its transportation system.

(Ord. No. 168-041822, § III, 4-18-2022)

Sec. 26-204. Application for occupancy permit.

Each ROW occupant with more than 200 linear feet of facilities shall apply for an occupancy permit. The application shall require the following information:

- (1) The name, address, telephone number and form of business of the applicant, and the names and addresses of all persons authorized to act on behalf of the applicant with respect to the application.
- (2) The name, address and telephone number of a responsible person whom the city may notify or contact at any time concerning the applicant's facilities.
- (3) Evidence of compliance with the provisions of 63 O.S. § 142.1 et seq., the "Oklahoma Underground Facilities Damage Prevention Act," as amended.
- (4) Identification of the ROW occupant's authority to occupy the right-of-way or evidence that the ROW occupant has applied for such authority; documentation of the location of existing facilities owned, operated, managed or leased by the ROW occupant.
- (5) Demonstration of the applicant's technical ability to construct and operate the proposed or existing facilities, including identification of key personnel.
- (6) A description of the applicant's prior experience in facility ownership and construction, and an identification of each locality in which the applicant or any of its principals have, or have had, a license, franchise or other authorization or any interest therein, including the name, address and phone number of each local authority, and references from each authority.
- (7) A declaration that the applicant agrees to comply with this Article, as it may be amended from time to time.
- (8) The technical standards that the applicant proposes to follow in constructing the facilities.

- (9) A detailed description of the physical facilities proposed to be installed within the city, including but not limited to an engineering site plan showing:
 - a. The proposed locations of the applicant's facilities, including any manholes or overhead poles;
 - b. The size, type and proposed depth of any conduit or other enclosures; and
 - c. The relationship of the system to all existing poles, utilities, sidewalks, pavement, telecommunication facilities and other improvements within the right-of-way.
- (10) An affidavit or declaration of the applicant or an authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments and certifying that the application meets all federal and state law requirements.
- (11) Any additional information the city may require, which is reasonably necessary for ROW management.
- (12) All applicable fees.

(Ord. No. 168-041822, § IV, 4-18-2022)

Sec. 26-205. Review of application by the city council.

The city council shall review every application and after reviewing any information deemed appropriate, shall either approve or deny the application. In evaluating an application, the city council shall consider:

- (1) The applicant's technical, financial and legal qualifications to construct or operate the proposed facilities;
- (2) The nature of the proposed facilities and equipment; and
- (3) The effects of a grant of an occupancy permit on the present and future public use of the right-of-way, including any foreclosure of future uses of the right-of-way.

(Ord. No. 168-041822, § V, 4-18-2022)

Sec. 26-206. Term and renewal of application.

The city council may revoke any occupancy permit at will. In addition, an occupancy permit shall be rendered invalid and revoked if row occupant fails to timely pay any fees due to the city, including, but not limited to, fees required to be paid under this article, or ROW occupant fails to provide the city with the name, address and telephone number of a responsible person whom the city may notify or contact at any time concerning the occupant's facilities.

(Ord. No. 168-041822, § VI, 4-18-2022)

Sec. 26-207. Occupancy fee, inspection fee and service charges.

- (a) Except as provided in this section, every occupancy permit holder shall pay an annual occupancy fee to reimburse the city for the cost of acquiring, maintaining and managing the right-of-way. The occupancy fee shall be assessed as a pro rata share recovery rate established by resolution of the city council.
- (b) ROW occupants who provide communications services may, in lieu of the occupancy fee set forth in subsection (a), pay an inspection fee and service charge in an amount equal to two percent of the communications service gross revenues from within the corporate limits of the city for each current year. This inspection fee and service charge is to compensate the city for the expenses incurred and services

rendered incident to the exercise of its power, supervision, police regulation and police control of the construction and maintenance of lines and equipment in the city.

(Ord. No. 168-041822, § VII, 4-18-2022)

Sec. 26-208. Right-of-way construction permit.

To apply for a right-of-way construction permit, an applicant shall furnish the following:

- (1) Name of the owner or operator of the facility;
- (2) A sketch or drawing of the project;
- (3) Dates of the construction activity, the proposed start and stop times and any proposal to temporarily reopen any roadway for any "peak hour" period;
- (4) The names of any known subcontractors working on the proposed project under the applicant's responsibility and authority;
- (5) Proof of payment of all money due the city for occupancy fees, right-of-way construction permit fees, cable service fees, and any invoiced cost, loss, damage or expense suffered by the city as a result of the applicant's prior construction activity, including, but not limited to, any emergency action taken by the city;
- (6) Evidence that the applicant has obtained the insurance coverage required by this article;
- (7) A traffic control plan in compliance with this article;
- (8) A list of the applicant's emergency providers, including the name of the company, local contact person, mailing and e-mail address, and the 24-hour emergency phone number, which information shall be kept current by written notice to the city; and
- (9) A detailed description of the physical facilities proposed to be installed within the city, including but not limited to an engineering site plan showing:
 - a. The proposed locations of the applicant's facilities, including any manholes or overhead poles;
 - b. The size, type and proposed depth of any conduit or other enclosures; and
 - c. The relationship of the system to all existing poles, utilities, sidewalks, pavement, telecommunication facilities and other improvements within the right-of-way.

(Ord. No. 168-041822, § VIII, 4-18-2022)

Sec. 26-209. Application and permit fees.

Right-of-way occupants shall be required to pay both application and/or permit fees. Upon submission of a permit application, an application fee of \$150.00 shall be paid to the city. This fee is nonrefundable and must be collected before review of the application begins. Upon approval of the right-of-way construction permit, the applicant shall remit a permit fee. This fee shall be calculated based on the actual costs to the city for inspection and plan review.

(Ord. No. 168-041822, § IX, 4-18-2022)

Sec. 26-210. Permit terms and conditions.

- (a) Each right-of-way construction permit shall describe the general location of the permitted project, the size of the obstructed area, the duration of the permit, which shall be based on the amount of time estimated for completion of the permitted activity and any special conditions or other information deemed relevant by the city. A right-of-way construction permit shall be issued by the city council or denied within 45 days of submission of a completed application and payment of all required fees.
- (b) An emergency right-of-way construction permit is available for any emergency excavation required to maintain the safety and well-being of the general public. Notification shall be provided to the city's building inspector within two hours of the commencement of the project. This notification shall consist of the following: holders of emergency ROW construction permits shall notify the building inspector upon the completion of the project. A permittee shall possess a current occupancy permit in order to qualify for an emergency ROW construction permit.
- (c) All permittees shall comply with provisions of this article and this Code.

(Ord. No. 168-041822, § X, 4-18-2022)

Sec. 26-211. Permit terms and conditions.

- (a) The city shall have the power to establish reasonable limitations on the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the width and physical condition of the right-of-way, the protection of existing facilities in the right-of-way, regulatory requirements applying to existing facilities, and future city plans for public improvements and development projects which have been determined to be in the public's interest.
- (b) Facilities may be installed above ground in areas where existing utility facilities are above ground and shall, unless otherwise approved by the city council, be installed underground in areas where existing facilities are installed underground, subject to all applicable safety codes. The city encourages the sharing of underground and overhead facilities. Leasing of excess space in ducts, conduits and on poles is a matter between interested parties; however, lessees of such physical facilities must still comply with the terms of this article, unless otherwise expressly exempted. Underground facilities shall be placed in such a manner so they can be located by the owner of the facilities or the owner's representative.
- (c) All utilities shall be placed within the right-of-way according to city standards and this Code. Excavations shall be promptly excavations shall be promptly backfilled in accordance with city standards and the earth shall be restored to original grade to assure no hazard to vehicular, animal or pedestrian traffic. All pavement cutting, replacement of any sidewalk, trenching, and crossings shall be performed in accordance with city standards. The permittee shall perform all testing, soil analysis, compaction testing and any other testing required by the city. The permittee shall restore all disturbed areas to a condition equal to or better than existed immediately prior to beginning work.
- (d) Any permittee occupying any portion of right-of-way shall erect a barrier around the perimeter of any excavation and provide any and all traffic-control devices, signs and lights appropriate to the level of complexity of the activity in order to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic-control plan in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).
- (e) Permittees shall implement each traffic-control plan. All permittees shall at all times comply with all applicable city, state and federal requirements and maintain all devices in good repair.

- (f) A current right-of-way construction permit shall be maintained on each work site. The right-of-way construction permit shall be presented upon request.
- (g) All ROW occupants shall at all times employ due care during the installation and maintenance process and use commonly accepted standards, methods and devices including, but not limited to, safety standards of OSHA, NEC, FCC and the city for preventing failures and accidents which are likely to cause damages, injuries or nuisances to the public. All structures and all lines, equipment and connections in, over, under and upon the streets of the city, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition, and in good order and repair.

(Ord. No. 168-041822, § XI, 4-18-2022)

Sec. 26-212. Insurance.

Each ROW occupant and permittee shall carry and furnish proof of insurance of such kinds and with such limits of liability as established by the city council in the applications and permit. At a minimum, each ROW occupant and permittee shall provide proof of and maintain owner's and contractor's protective insurance, commercial general liability insurance, automobile liability insurance, professional liability insurance, and worker's compensation insurance. All insurance policies shall be with an insurance company authorized to do business in the state and the city shall be named as additional insured on all policies except worker's compensation. The owner's and contractor's protective liability insurance shall insure the city against any and all actions, claims, judgments or demands arising from damages and/or injuries of any kind and character sustained by any person or persons because of work performed by the contractor.

(Ord. No. 168-041822, § XII, 4-18-2022)

Sec. 26-213. Indemnification.

- (a) Each ROW occupant and permittee shall, at their sole cost and expense, indemnify, hold harmless and defend the city, its elected and appointed officials, officers, boards, commissions, commissioners, agents, employees and volunteers against any and all claims, suits, causes of action (whether frivolous or otherwise), proceedings and judgments for damages or equitable relief arising out of the installation, construction, maintenance or operation of facilities by the ROW occupant or permittee; the conduct of the ROW occupant's business in the city; or in any way arising out of the ROW occupant's enjoyment or exercise of the privileges granted by the city or applicable law, regardless of whether the act or omission complained of is authorized, allowed or prohibited by the city, other applicable law, or the terms of any grant to occupy the right-of-way, including the construction, operation, or repair of the facilities in question.
- (b) The indemnity provision of this section includes, but is not limited to, the city's reasonable attorneys' fees incurred in defending against any such action, claim, suit (whether frivolous or otherwise) or proceeding, as well as the reasonable value of any services rendered by the city attorney or city staff or employees.
- (c) Nothing in this article shall be construed to waive any immunity the city enjoys under applicable law or the state constitution.
- (d) Acceptance of the provisions of this section shall be a condition of all occupancy permits and right-of-way construction permits.

(Ord. No. 168-041822, § XIII, 4-18-2022)

Sec. 26-214. Records maintenance.

- (a) ROW occupants shall keep books and records for periods of time reasonably established by the city to determine compliance with this article. The city, after reasonable notice, shall have the right to review the books and records, including any complaints, of ROW occupants during normal business hours as is reasonably necessary to monitor compliance with this article.
- (b) Each ROW occupant shall maintain accurate maps and improvement plans showing the location, size and a general description of all facilities, equipment and service drops installed in the right-of-way and any power supply sources (including voltages and connections). Facilities and equipment shown shall include, but not be limited to, cables, conduits, electric lines, pipelines, fiber optic cables, electric transformers, gas meters and junction boxes. The ROW occupant shall provide a system map to the city showing the approximate location of its facilities located along the right-of-way.

(Ord. No. 168-041822, § XIV, 4-18-2022)

Sec. 26-215. Relocation of equipment and facilities.

- (a) A ROW occupant or permittee must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its equipment and facilities in the right-of-way upon written notification by the city that it is in the best interest of the health, safety and welfare of the public regarding any such relocation. Relocation shall include restoring the right-of-way to the same condition it was in prior to said relocation, in accordance with the terms of this article.
- (b) A ROW occupant shall, within six months, at its own expense, protect or modify any part of its facility when required by the city by reason of traffic safety, public safety, road construction, change of street grade, installation of water, stormwater or sanitary pipes, traffic signal devices or any other types of city improvement projects. This action will only be taken to prevent interference by the ROW occupant's facilities with: a present or future city use of the right-of-way, a capital improvement project funded and scheduled to be undertaken by the city, or an economic development project in which the city has an interest or investment. This action may also be taken when the public health, safety and welfare require it or when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way, both vehicular and pedestrian; or when aboveground equipment is located in such a manner as to create an obstruction to a driver's line of sight.

(Ord. No. 168-041822, § XV, 4-18-2022)

Sec. 26-216. Damage to facilities.

Each ROW occupant shall comply fully with the Underground Facilities Damage Prevention Act, 63 O.S. § 142.1 et seq., as may be amended from time to time.

(Ord. No. 168-041822, § XVI, 4-18-2022)

Sec. 26-217. Discontinuing operations.

A ROW occupant that has determined to discontinue its operations in the city must either:

- (1) Obtain the consent of the city to transfer ownership control of its facilities pursuant to the provisions of this article and ensure that the new owner or controlling entity has applied for registration prior to closing; or

- (2) Submit to the city, within 90 days of the planned date for discontinuance of operation, a proposal and instruments for transferring ownership of its facilities to the city. If a ROW occupant proceeds under this clause, the city may at its option purchase the facilities or require the ROW occupant, at its own expense, to remove the facilities.

(Ord. No. 168-041822, § XVII, 4-18-2022)

Sec. 26-218. Abandoned and unusable facilities.

Facilities of a ROW occupant who fails to comply with the preceding paragraph and which for 12 months remain unused, shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. Upon 30 days' notice to the occupant, the city may exercise any remedies or rights it has at law or in equity, including but not limited to abating the nuisance, taking possession of the facilities and restoring them to a useable condition, requiring removal of the facilities at the expense of the ROW occupant, or removing abandoned facilities in any right-of-way in conjunction with a proposed construction project.

(Ord. No. 168-041822, § XVIII, 4-18-2022)

Sec. 26-219. Abandoned and unusable facilities.

No provision of this article, nor any action taken by the city pursuant to this article, shall be deemed to surrender, waive, impair, or lessen the lawful powers and rights to regulate the use or occupancy of the right-of-way that now or may be hereafter vested in the city under the state constitution and statutes. By accepting an occupancy permit or a right-of-way construction permit, a permittee or ROW occupant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the city as exist under applicable law to adopt and enforce general ordinances necessary for the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the city pursuant to such powers. Unless otherwise expressly provided in an occupancy permit or right-of-way construction permit, any conflict between the provisions of any such authorization and any other present or future lawful exercise of the city's regulatory or police powers shall be resolved in favor of the city.

(Ord. No. 168-041822, § XIX, 4-18-2022)

Sec. 26-220. Penalties.

The city council shall have the authority to assess penalties against a ROW occupant for failure to comply with the terms of its occupancy permit or right-of-way construction permit or any other portions of this article. Any such assessment must be provided to the ROW occupant in writing with a notice of violation and provide for a reasonable opportunity to cure the violation, provided that the violation is not a result of inclement weather. If the ROW occupant fails to remedy the deficiency by the end of the ten-day period provided in this article, the penalty amounts shall begin to accrue and shall continue to accrue until the date that the deficiency is corrected.

(Ord. No. 168-041822, § XX, 4-18-2022)