



WEST HAVEN CITY COUNCIL AGENDA

WEDNESDAY, MARCH 06, 2024 6:00 PM
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

NOTICE IS HEREBY GIVEN THAT ON **March 06, 2024** THE COUNCIL OF WEST HAVEN CITY WILL HOLD THE FOLLOWING PUBLIC MEETINGS: **5:00 PM: COUNCIL WORKSHOP** **6:00 PM: REGULAR WEDNESDAY CITY COUNCIL MEETING**. JOIN US DIGITALLY FOR THE WORK SESSION AND COUNCIL MEETING AT [HTTPS://US06WEB.ZOOM.US/J/81581435918](https://us06web.zoom.us/j/81581435918). WATCH LIVE AT [HTTPS://WWW.YOUTUBE.COM/CHANNEL/UCeeQnQBTFZJwTGOPHMCNCBA](https://www.youtube.com/channel/UCeeQnQBTFZJwTGOPHMCNCBA).

5:00 Council Workshop – In City Council Chambers

NO ACTION CAN OR WILL BE TAKEN ON ANY CITY COUNCIL MEETING AGENDA ITEMS DISCUSSED DURING PRE-COUNCIL WORKSHOP - DISCUSSION OF SUCH ITEMS IS FOR CLARIFICATION OF AGENDA ITEMS.

MEETING TO ORDER: MAYOR VANDERWOOD

REPORTS AND DISCUSSION AS FOLLOWS:

1. DISCUSSION-COUNCIL UPDATES
2. DISCUSSION-COMMUNITY CENTER
3. DISCUSSION-TEMPORARY LAND USE REGULATION REGARDING CLUSTER SUBDIVISIONS AND PLANNED RESIDENTIAL UNIT DEVELOPMENTS
4. DISCUSSION-PROPERTIES UNDER THE POWER LINES
5. DISCUSSION-SETBACKS FOR ACCESSORY BUILDINGS
6. UPDATE-BLEACHERS AT THE R. KENNETH BALDWIN COUNTRY PARK

6:00 PM REGULAR CITY COUNCIL MEETING

1. MEETING CALLED TO ORDER-MAYOR VANDERWOOD
 2. OPENING CEREMONIES
 - A. PLEDGE OF ALLEGIANCE-COUNCILMEMBER CALL
 - B. PRAYER/MOMENT OF SILENCE-COUNCILMEMBER DIXON
 3. PUBLIC PRESENTATION: Resident(s) attending this meeting will be allotted 2 minutes to express a concern or ask a question about any issue that **IS NOT ON THE AGENDA** No action can or will be taken on any issue(s) presented.
 4. UPCOMING EVENTS

Senior Lunch Bunch-March 27, 2024-11:30 AM
Easter Egg Hunt-March 30, 2024-9:00 AM
Dumpster Days-April 18, 2024-April 20, 2024
Utah League of Cities and Towns-Midyear Conference-April 17, 2024-April 19, 2024
 5. COUNCIL UPDATES
- ***AGENDA ACTION ITEMS*****
6. ACTION ON CONSENT AGENDA
 - A. STRATEGIC PLAN CITY COUNCIL MINUTES-MEETING HELD-FEBRUARY 15, 2024
 - B. CITY COUNCIL MINUTES-MEETING HELD-FEBRUARY 21, 2024

- C. NILSON HOMES-\$115,843.81-COMMUNITY CENTER RELEASE
7. ACTION ON PLANNING COMMISSION MEETING RECOMMENDATION(S)
- A. FINAL SUBDIVISION APPROVAL-SALT POINT WEST SUBDIVISION AMENDMENT-APPROX. 4000 S AND 3050 W (PARCEL #080290095)-MCKENNA CHRISTENSEN-CW LAND DEVELOPMENT CO
8. PUBLIC HEARING-FOR THE PURPOSE OF RECEIVING PUBLIC INPUT ON USING AMERICAN RESCUE PLAN ACT FUNDS FOR LAW ENFORCEMENT IN THE AMOUNT OF \$1,812,278 IN THE GENERAL FUND
9. ACTION ON PUBLIC HEARING-ACTION ON RESOLUTION 06-2024-ON USING AMERICAN RESCUE PLAN ACT FUNDS FOR LAW ENFORCEMENT IN THE AMOUNT OF \$1,812,278 IN THE GENERAL FUND
10. PUBLIC HEARING-FOR THE PURPOSE OF RECEIVING PUBLIC INPUT ON AN ORDINANCE REGARDING STREETS AND PUBLIC RIGHTS OF WAY-MAINTENANCE, OBSTRUCTIONS, EXCAVATION, AND RESTORATION
11. ACTION ON PUBLIC HEARING-ACTION ON ORDINANCE 06-2024-AN ORDINANCE REGARDING STREETS AND PUBLIC RIGHTS OF WAY-MAINTENANCE, OBSTRUCTIONS, EXCAVATIONS, AND RESTORATION
12. ACTION ON RESOLUTION 07-2024-INTERLOCAL AGREEMENT BETWEEN WEBER COUNTY AND WEST HAVEN CITY FOR SOLID WASTE DISPOSAL
13. ACTION ON ORDINANCE 07-2024-AN ORDINANCE ADOPTING A TEMPORARY LAND USE REGULATION REGARDING CLUSTER SUBDIVISIONS AND PLANNED RESIDENTIAL UNIT DEVELOPMENTS
14. CONTINUATION ON DISCUSSION-ANY ITEMS LISTED ON THE 5:00 PM WORKSHOP AGENDA
15. ADJOURNMENT

Emily Green

Emily Green, City Recorder

In compliance with the Americans with Disabilities Act, persons needing special accommodations, including auxiliary communicative aids and services, for this meeting should notify the city recorder at 731-4519 or by email: emilyg@westhavencity.com at least 48 hours in advance of the meeting.

CERTIFICATE OF POSTING

The undersigned, duly appointed city recorder, does hereby certify that the above notice and agenda has been posted in the West Haven City Recorder's office; at the West Haven City Complex on the Notice Board and at westhavencity.com; emailed to the Standard-Examiner with a request that it be posted in their Wednesday night meeting section, mailed and emailed to the West Haven City Mayor and each West Haven City Council Member who has email capacity and to the city attorney



WEST HAVEN CITY STRATEGIC PLAN CITY COUNCIL MEETING MINUTES

February 15, 2023 5:00 P.M.
Roy Hope Center
5051 S 1900 W Roy, UT. 84067

Present: Rob Vanderwood Mayor
Carrie Call Councilmember
Ryan Saunders Councilmember
Ryan Swapp Councilmember
Kim Dixon Councilmember

Staff Present: Emily Green City Recorder
Shawn Warnke City Manager

Excused: Nina Morse Councilmember

1. **WELCOME-MAYOR VANDERWOOD**

Mayor Vanderwood brought the Meeting to order at 5:01 pm. and welcomed those in attendance.

2. **REVIEW AND DISCUSSION-MISSION AND VISION STATEMENTS, STRATEGIC PRIORITIES, CAPITAL PROJECTS, REVENUE SOURCES, AND RELATED TOPICS ASSOCIATED WITH THE PREPARATION OF THE FISCAL YEAR 2025 BUDGET**

Shawn Warnke went over the previous vision statement.

Councilmember Saunders suggested putting portions of our city into land trusts to preserve some of the open space.

Shawn Warnke went over the mission statement.

Mayor Vanderwood suggested doing a new study with residents.

Councilmember Swapp suggested surveying unincorporated Weber County residents as well.

Shawn Warnke asked the Council how they could define through the general plan.

Councilmember Swapp said he would like the general plan more defined especially in regards to high density and that sidewalks need to be addressed in it. He said he does not want sidewalks added to areas where roads will be widened, because that infrastructure can be added afterwards.

Councilmember Dixon agreed.

Shawn Warnke discussed the community identity.

Mayor Vanderwood suggested city markers for the entrances to the city.

Shawn Warnke discussed economic development.

Mayor Vanderwood expressed the desire to see more restaurants in West Haven especially on 1900 W, Hinckley, and Midland.

Councilmember Saunders asked for building updates every three months.

Mayor Vanderwood suggested getting bids from local builders for the community center.

Councilmember Swapp suggested purchasing land for any needs the city may have in the future.

Councilmember Call said she is in favor of a community center.

Councilmember Dixon said she would like to see bids on it.

3. **ADJOURNMENT**

Councilmember Dixon moved to adjourn at 7:54 PM. **Councilmember Saunders seconded** the motion. Councilmember Dixon, aye; Councilmember Call, aye; Councilmember Swapp, aye; Councilmember Saunders, aye; **Vote was unanimous.**

Emily Green
City Recorder

Date Approved: _____

DRAFT



WEST HAVEN CITY COUNCIL MEETING MINUTES

February 21, 2024 6:00 PM
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

PRESENT

Mayor - Rob Vanderwood
Councilmember - Carrie Call
Councilmember - Ryan Saunders
Councilmember - Nina Morse
Councilmember - Kim Dixon
Councilmember - Ryan Swapp

EXCUSED

None

5:00 Council Workshop – In City Council Chambers

NO ACTION CAN OR WILL BE TAKEN ON ANY CITY COUNCIL MEETING AGENDA ITEMS DISCUSSED DURING
PRE-COUNCIL WORKSHOP - DISCUSSION OF SUCH ITEMS IS FOR CLARIFICATION OF AGENDA ITEMS.

MEETING TO ORDER: MAYOR VANDERWOOD

REPORTS AND DISCUSSION AS FOLLOWS:

1. DISCUSSION-COUNCIL UPDATES

Councilmember Dixon said that Easter Egg Hunt is planned for March 30, 2024 at 9:00 AM.

Councilmember Call asked for an update on the public comments from the previous meeting.

Shawn Warnke said he will be bringing the setback issue back to Planning Commission and that he discussed the sidewalk with Weber County School District.

Councilmember Saunders asked about the status of flooding in Green Farm.

Amy Hugie suggested asking the Nilson Homes representative tonight.

Councilmember Swapp asked about the pumps we received from a grant and if we could allow residents to use those.

Mayor Vanderwood said he is not sure of the process of allowing residents to use those pumps.

2. DISCUSSION-CLUSTER SUBDIVISIONS

Alika Murphy asked for direction on the cluster subdivision ordinance.

Councilmember Saunders expressed concern over not allowing clustering.

Councilmember Swapp suggested removing clustering all together.

Amy Hugie suggested looking at how many lots would be effected.

3. DISCUSSION-ANNEXATION POLICY PLAN

Council discussed the annexation policy plan.

Councilmember Swapp suggested sending out information to Taylor residents about annexing into West Haven City.

6:00 PM REGULAR CITY COUNCIL MEETING

1. MEETING CALLED TO ORDER-MAYOR VANDERWOOD

*The council met at their regularly scheduled meeting held in the council chambers.
Mayor Vanderwood called the meeting to order at 6:01 pm. and welcomed those in attendance.*

2. OPENING CEREMONIES

A. PLEDGE OF ALLEGIANCE-COUNCILMEMBER SWAPP

B. PRAYER/MOMENT OF SILENCE-COUNCILMEMBER MORSE

3. PUBLIC PRESENTATION: Resident(s) attending this meeting will be allotted 2 minutes to express a concern or ask a question about any issue that **IS NOT ON THE AGENDA** No action can or will be taken on any issue(s) presented.

No one came up at this time.

4. UPCOMING EVENTS

Senior Lunch Bunch-February 28, 2024-11:30 AM

Councilmember Dixon said the Easter Egg Hunt will be March 30, 2024, at 9:00 AM.

5. COUNCIL INFORMATION

Utah League of Cities and Town Midyear Conference-April 17-19, 2024

6. COUNCIL UPDATES

Mayor Vanderwood said that him and the City Manager had a meeting with Cameron Diehl and Representative Musselman about upcoming bills.

Councilmember Morse said the Utah League of Cities and Towns legislative policy committee have asked that she be a voting member and she suggested the City Manager should be as well.

AGENDA ACTION ITEMS

7. ACTION ON CONSENT AGENDA

A. CITY COUNCIL MINUTES-MEETING HELD-FERUARY 7, 2024

B. ROCK HARD EXCAVATING LLC-\$196,030.32-INV.#BANK STABIL

Councilmember Saunders corrected the minutes with the addition of his comments about the legislature performing an audit before passing new legislation on item number 13.

Nina Morse made a motion to approve. Carrie Call seconded the motion.

AYES:	Councilmember Call, Councilmember Saunders, Councilmember Morse, Councilmember Dixon, Councilmember Swapp
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NAYS:	
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RECUSED:	
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8. PRESENTATION-AUDIT REVIEW-ULRICH & ASSOCIATES, PC

Heather Christopherson presented the audit.

9. ADVICE & CONSENT OF: TWO (2) EVENTS COMMITTEE MEMBER APPOINTMENTS-SUBMITTED BY MAYOR VANDERWOOD TO FILL 2, 3 YEAR TERM POSITIONS. THE NEW TERMS WILL BE FROM JANUARY 31, 2024 THRU DECEMBER 31, 2026

Mayor Vanderwood presented Julie Rose and James Jensen.

Carrie Call made a motion to approve give advice and consent for Julie Rose and James Jensen. **Nina Morse** seconded the motion.

AYES:	Councilmember Call, Councilmember Saunders, Councilmember Morse, Councilmember Dixon, Councilmember Swapp
NAYS:	
RECUSED:	

10. ACTION ON RESOLUTION 05-2024-GREEN FARM SUBDIVISION IMPROVEMENT AGREEMENT

Nina Morse made a motion to adopt resolution 05-2024. **Kim Dixon** seconded the motion.

AYES:	Councilmember Call, Councilmember Saunders, Councilmember Morse, Councilmember Dixon, Councilmember Swapp
NAYS:	
RECUSED:	

11. DISCUSSION-DE-ANNEXATION OF THE TAYLOR WEST WEBER PARKS AND CEMETERY DISTRICT

Amy Hugie went over the options to de-annex from the Taylor West Weber Parks and Cemetery District.

City Council agreed to meet with the districts to see if they would be willing to do a boundary line adjustment.

12. ADJOURNMENT

Carrie Call made a motion to adjourn at 6:59 PM. **Ryan Swapp** seconded the motion.

AYES:	Councilmember Call, Councilmember Saunders, Councilmember Morse, Councilmember Dixon, Councilmember Swapp
NAYS:	
RECUSED:	

Emily Green

City Recorder

Date Approve:

City Council
Staff Review Memo

March 6, 2024

Alika Murphy, Planner I



Subdivision – Salt Point Subdivision Parcel A

Request: Grant approval of a 1-lot commercial subdivision

Property Address: Approximately 4000 South and 3050 West, Parcel# 080290095

Property Zone: Mixed-used, commercial component

Property Size: 1.00 acres for lot 1

Applicant: CW Land Co (Agent: Mckenna Christensen)

Governing Document(s): WHC Zoning Map; WHZC (online version)

Decision Type: Administrative

Staff Recommendation: See comments under "Staff Review"

Background

The applicant is presenting a 1-lot commercial property final subdivision plat located at approximately 4000 S 3050 W. They are taking the south part of Parcel# 08-029-0095 to create this 1-lot subdivision with a remainder parcel that will be developed accordingly with the commercial requirements since this parcel is zoned as commercial. There is no site improvement at this time, it is being presented for preliminary and final subdivision approval. The applicant has not presented a site plan at this time but will be required to do so and follow the process prior to any site development. Preliminary approval was granted at the February 28, 2024 Planning Commission meeting and final plat approval was recommended to the Council.

Staff Review

As a commercial plat, there are no minimum lot sizes or setbacks which need to be outlined. There are no public infrastructure facilities or designs which need to be reviewed by City staff. Any commercial business that is interested in developing on this site will have to submit a site plan where staff will review to make sure that it is compliance with our commercial and design review ordinance. Engineering and fire have taken a look at the plat and have no further comments at this time.

Staff Recommendation

Staff finds that in all material respects, the final plat is compliant with City standards and accordingly, it is **Staff's position that the Council give final plat approval for this commercial subdivision.**

SUBDIVISION APPLICATION



SUDIVISION NAME Salt Point West Subdivision

LOCATION 4000 South 3050 West

PARCEL # 080290095

NO. OF LOTS 1

ZONE C1

APPLICANTS NAME McKenna Christensen / CW Land Co

PHASES	
PHASE 1	NO. OF LOTS <u>1</u>
PHASE 2	NO. OF LOTS _____
PHASE 3	NO. OF LOTS _____
PHASE 4	NO. OF LOTS _____
PHASE 5	NO. OF LOTS _____

N/A	Received	N/A	Received	Letters of acknowledgment/approval/conditions from
<u>PRELIMINARY</u>		<u>FINAL</u>		
☐	Affidavit of Understanding and Acceptance of Fees	☐	☐	Secondary Water Company
		☐	☐	Culinary Water Company
		☐	☐	Fire District
		☐	☐	All other items required by City Planner

<u>Planning Commission preliminary action</u> ☐ Approved ☐ Denied Date _____	<u>Scheduled for Planning Commission Agenda</u> _____ <u>Conditions:</u> _____ _____ _____ _____
<u>City Council preliminary action</u> ☐ Approved ☐ Denied Date _____	
<u>Planning Commission final action</u> ☒ Approved ☐ Denied Date <u>2/28/24</u>	
<u>City Council final action</u> ☐ Approved ☐ Denied Date _____	

ALL APPLICABLE ITEMS MUST BE RECEIVED BEFORE BEING ADDED TO THE AGENDA.

SALT POINT WEST SUBDIVISION

PART OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY
CITY OF WEST HAVEN, WEBER COUNTY, UTAH
FEBRUARY, 2024

BOUNDARY DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, WEST HAVEN CITY, WEBER COUNTY, UTAH

BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF 4000 SOUTH STREET (SR-37), BEING 478.42 FEET NORTH 89°23'52" WEST ALONG THE SECTION LINE, AND 68.18 FEET NORTH 00°36'06" EAST FROM THE SOUTH QUARTER CORNER OF SAID SECTION 3 (SAID SOUTH QUARTER CORNER BEARS NORTH 89°25'00" WEST 2637.21 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 3); THENCE TWO (2) COURSES ALONG THE EASTERLY LINE OF THE LAYTON CANAL AS FOLLOWS: (1) NORTH 00°35'48" EAST 93.25 FEET; AND (2) NORTHERLY 61.76 FEET ALONG THE ARC OF 150.00 FEET RADIUS CURVE TO THE RIGHT THROUGH A DELTA ANGLE OF 23°35'22", AND LONG CHORD OF NORTH 12°23'29" EAST 61.32 FEET; THENCE SOUTH 89°19'02" EAST 282.17 FEET; THENCE SOUTH 00°23'36" WEST 112.08 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF 4000 SOUTH STREET; THENCE FOUR (4) COURSES ALONG SAID NORTHERLY LINE AS FOLLOWS: (1) NORTH 88°27'49" WEST 17.50 FEET; (2) SOUTH 00°23'36" WEST 11.16 FEET; (3) SOUTH 51°30'06" WEST 47.99 FEET TO A POINT OF CURVATURE; AND (4) WESTERLY 240.40 FEET ALONG THE ARC OF A 9481.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A DELTA ANGLE OF 01°27'21", AND LONG CHORD OF NORTH 89°19'02" WEST 240.40 FEET (CENTER BEARS SOUTH 01°24'39" WEST) TO THE POINT OF BEGINNING.

CONTAINING 43,560 SQUARE FEET OR 1.000 ACRES.

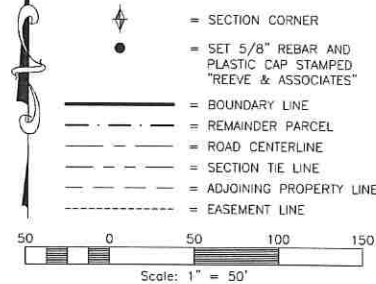
BASIS OF BEARINGS

THE BASIS OF BEARING FOR THIS PLAT IS THE SECTION LINE BETWEEN THE SOUTH QUARTER CORNER AND THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, SHOWN HEREON AS NORTH 89°23'52" WEST.

NARRATIVE

THE PURPOSE OF THIS PLAT IS TO CREATE A ONE LOT SUBDIVISION WITH A REMAINDER PARCEL. THE BOUNDARY WAS DETERMINED BY RETRACING UDOT DEEDS AND THE SALT POINT ROAD DEDICATION PLAT. ALL PROPERTY CORNERS WERE SET WITH A 5/8" REBAR AND PLASTIC CAP STAMPED "REEVE AND ASSOCIATES".

LEGEND



CURVE TABLE

#	RADIUS	ARC LENGTH	CHD LENGTH	TANGENT	CHD BEARING	DELTA
C1	150.00'	61.76'	61.32'	31.32'	N12°23'29"E	23°35'22"
C2	150.00'	38.08'	37.97'	19.14'	N31°27'29"E	14°32'38"
C3	290.50'	13.81'	13.81'	6.91'	S51°21'40"E	2°43'27"
C4	284.50'	198.62'	194.61'	103.55'	S69°59'55"E	40°00'00"
C5	19.00'	29.85'	26.87'	19.00'	S44°59'55"E	89°59'59"
C6	9481.00'	240.40'	240.40'	120.21'	N89°19'02"W	1°27'21"



VICINITY MAP

SCALE: NONE

3900 SOUTH STREET

3050 WEST STREET

4000 SOUTH STREET

SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY, FOUND BRASS CAP MONUMENT

SOUTH QUARTER CORNER OF SECTION 3, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY, FOUND BRASS CAP MONUMENT

SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY, NOT FOUND

WEST HAVEN CITY ENGINEER

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT WAS DULY APPROVED BY THE WEST HAVEN CITY ENGINEER

THIS _____ DAY OF _____, 20____.

WEST HAVEN CITY ENGINEER

WEST HAVEN CITY PLANNING COMMISSION

APPROVED BY THE WEST HAVEN CITY PLANNING COMMISSION

THIS _____ DAY OF _____, 20____.

WEST HAVEN CITY CHAIRMAN

WEST HAVEN CITY ACCEPTANCE

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT WAS DULY APPROVED AND ACCEPTED BY WEST HAVEN CITY

THIS _____ DAY OF _____, 20____.

ATTEST

TITLE

WEST HAVEN CITY ATTORNEY

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT WAS DULY APPROVED BY THE WEST HAVEN CITY ATTORNEY

THIS _____ DAY OF _____, 20____.

WEST HAVEN CITY ATTORNEY

WEBER COUNTY RECORDER

Entry No. _____ Fee Paid _____
Recorded _____ At _____
In Book _____ Of The
Official Records, Page _____
Recorded For: _____

Weber County Recorder

Deputy

SURVEYOR'S CERTIFICATE

I, JASON T. FELT, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AND THAT I HOLD A LICENSE IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS ACT; AND THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THIS PLAT, AND THAT THIS PLAT OF SALT POINT WEST SUBDIVISION IN WEST HAVEN, WEBER COUNTY, UTAH, HAS BEEN DRAWN CORRECTLY TO THE DESIGNATED SCALE AND IS A TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LANDS INCLUDED IN SAID SUBDIVISION, BASED UPON DATA COMPILED FROM RECORDS IN THE WEBER COUNTY RECORDER'S OFFICE AND FROM SAID SURVEY MADE BY ME ON THE GROUND. I FURTHER CERTIFY THAT THE REQUIREMENTS OF ALL APPLICABLE STATUTES AND ORDINANCES OF WEST HAVEN CITY, UTAH, CONCERNING ZONING REQUIREMENTS REGARDING LOT MEASUREMENTS HAVE BEEN COMPLIED WITH.

SIGNED THIS _____ DAY OF _____, 20____.

9239283

UTAH LICENSE NUMBER



OWNERS DEDICATION AND CERTIFICATION

WE THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND, DO HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AS SHOWN HEREON AND NAME SAID TRACT, SALT POINT WEST SUBDIVISION, AND GRANT AND DEDICATE A PERPETUAL RIGHT AND EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED HEREON AS PUBLIC UTILITY, THE SAME TO BE USED FOR THE INSTALLATION MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINE, STORM DRAINAGE FACILITIES, IRRIGATION CANALS OR FOR THE PERPETUAL PRESERVATION OF WATER CHANNELS IN THEIR NATURAL STATE WHICHEVER IS APPLICABLE AS MAY BE AUTHORIZED BY THE GOVERNING AUTHORITY, WITH NO BUILDINGS OR STRUCTURES BEING ERECTED WITHIN SUCH EASEMENTS AND ALSO DEDICATE THE CROSS ACCESS EASEMENTS TO THE OWNERS OF LOTS 1 AND THE REMAINDER PARCEL TO BE OWNED AND MAINTAINED BY THE SAME.

SIGNED THIS _____ DAY OF _____, 20____.

CW DEVELOPMENT LLC

NAME/TITLE

DATE

ACKNOWLEDGMENT

STATE OF UTAH) ss.
COUNTY OF _____)

ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, _____ (AND) _____ BEING BY ME DULY SWORN, ACKNOWLEDGED TO ME THEY ARE _____ AND _____ OF SAID LLC AND THAT THEY SIGNED THE ABOVE OWNER'S DEDICATION AND CERTIFICATION FREELY, VOLUNTARILY, AND IN BEHALF OF SAID LLC FOR THE PURPOSES THEREIN MENTIONED.

COMMISSION EXPIRES

NOTARY PUBLIC



Reeve & Associates, Inc.
3160 SOUTH 1500 WEST, RIVERDALE, UTAH 84405
TEL: (801) 621-3100 FAX: (801) 621-2666 www.reeve-associates.com
LAND PLANNERS • CIVIL ENGINEERS • LAND SURVEYORS
TRAFFIC ENGINEERS • STRUCTURAL ENGINEERS • LANDSCAPE ARCHITECTS

PROJECT INFO.

Surveyor: J. FELT
Designer: N. ANDERSON
Begin Date: 1-29-2024
Name: SALT POINT WEST SUBDIVISION
Number: 7562-07
Revision: _____
Scale: 1"=50'
Checked: _____

STAFF REPORT

TO: Mayor and City Council

FROM: Shawn Warnke, City Manager

DATE: March 6, 2023



SUBJECT: **RESOLUTION OF WEST HAVEN CITY AUTHORIZING USING AMERICAN RESCUE PLAN ACT ("ARPA") REVENUE; AUTHORIZING THE CITY MANAGER TO TAKE CERTAIN ACTIONS REGARDING THE ARPA REVENUE; AND AUTHORIZING THE MAYOR TO SIGN THIS RESOLUTION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

By the end of the 2024 calendar year, the City has a deadline to have the America Rescue Plan Act (ARPA) funds of \$1,812,000 spent to fulfill the ARPA requirements. The State of Utah Auditor is charged with ensuring the City complies with the deadline to expend ARPA funds, and as such the City needs to designate the ARPA expense and report this expense on the Utah Transparency Website. The City Council wants to use the ARPA funds on a capital project, which has yet to be determined, and this project will likely not meet the 2024 calendar year deadline.

To meet these two objectives, the proposed Resolution would authorize City staff to report the use of the ARPA Funds on law enforcement services, which is essentially \$1.9 million in FY 24. The City can then recognize the ARPA fund revenue as being earned in the General Fund. These actions will meet the requirements of the ARPA Act and the Utah State Auditor.

To meet the City Council's objective of spending the ARPA funds on a future capital project, the Resolution directs City staff to prepare a budget amendment transferring \$1,812,000 (the revenue realized by earning the ARPA Funds) to the capital projects fund, and labeling on the capital fund's balance sheet that this \$1,812,000 is "Assigned as Special Projects - City Council". This "assignment" does not allow these funds to be appropriated or used without specific and expressed approval from the City Council. This transfer and "assignment" will meet the objective of the City Council to use the ARPA funds on a future capital project, while allowing more time for the City Council to make the determination regarding which capital project without the looming deadline.

**CAPITAL PROJECTS FUND
BALANCE SHEET
JANUARY 31, 2024**

	JANUARY 31, 2024	JUNE 30, 2023	Change
ASSETS:			
Unrestricted Cash	\$ 7,944,086	\$ 8,666,765	\$ (722,679)
Restricted Cash	14,083,642	11,884,098	2,199,544
Total Cash	22,027,728	20,550,863	1,476,865
Receivables and Prepaids	333,760	1,145,156	(811,396)
Total Assets	<u>\$ 22,361,489</u>	<u>\$ 21,696,019</u>	<u>\$ 665,470</u>
LIABILITIES:			
Accounts Payable	\$ -	\$ 820,170	\$ (820,170)
Total Liabilities	<u>-</u>	<u>820,170</u>	<u>(820,170)</u>
FUND BALANCES:			
Restricted for park impact fees	5,610,137	5,409,503	200,634
Restricted for class c road	1,586,393	1,213,509	372,884
Restricted for transportation tax	2,281,336	1,895,180	386,156
Restricted for road impact fees	4,605,775	3,365,906	1,239,869
Unrestricted, unassigned	8,277,847	8,991,751	(713,904)
Total Fund Balances	22,361,489	20,875,849	1,485,640
Total Liabilities and Fund Balances	<u>\$ 22,361,489</u>	<u>\$ 21,696,019</u>	<u>\$ 665,470</u>

After recognizing the ARPA revenue in the General Fund, the City staff is directed to prepare a budget amendment that includes the transferring of approximately \$1,812,000 from the General Fund to the Capital Projects Fund and on the balance sheet of this fund to classify the transferred funds as "Assigned as Special Projects - City Council."

The arrow points to the location on the Balance Sheet where it will be noted that the \$1,812,000 is "Assigned as Special Projects - City Council". This "assignment" does not allow these funds to be appropriated or used without specific and expressed approval from the City Council.

Resolution No. 06-2024

RESOLUTION OF WEST HAVEN CITY AUTHORIZING USING AMERICAN RESCUE PLAN ACT ("ARPA") REVENUE; AUTHORIZING THE CITY MANAGER TO TAKE CERTAIN ACTIONS REGARDING THE ARPA REVENUE; AND AUTHORIZING THE MAYOR TO SIGN THIS RESOLUTION; AND, PROVIDING FOR AN EFFECTIVE DATE.

SECTION I – RECITALS:

WHEREAS, the City Council of West Haven City (herein "City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, in conformance with the provisions of UCA § 10-3-717, the governing body of the City may exercise all administrative powers by resolution including, but not limited to, purchasing equipment for the City; and,

WHEREAS, the City has received American Rescue Plan Act ("ARPA") revenue; and

WHEREAS, the City has received instructions regarding the appropriate use of the ARPA revenue; and

WHEREAS, at this time, the City wishes to use the ARPA revenue in an appropriate manner under the requirements of ARPA ; and

WHEREAS, this Resolution is designating how that ARPA revenue shall be treated and budgeted; and

WHEREAS, the City Council feels that the best way to accomplish its goals of providing for the health and the welfare of its citizens at this time is by using ARPA funds; and

WHEREAS, the City finds that the public convenience and necessity requires the actions herein contemplated,

NOW, THEREFORE, BE IT RESOLVED by the City of West Haven as follows:

SECTION II. RESOLVED:

1. That the City Manager is authorized to designate using the ARPA revenue by reporting on the transparency website the City's expenses in the amount of \$1,812,278 for law enforcement for FY 2024.
2. That the City staff is directed to recognize the remaining ARPA revenue of \$1,812,278 in the General Fund.
3. After recognizing the ARPA revenue in the General Fund, the City staff is directed to prepare a budget amendment that includes the transferring of

approximately \$1,812,000 from the General Fund to the Capital Projects Fund and on the balance sheet of this fund to classify the transferred funds as "Assigned as Special Projects - City Council".

4. That the Mayor is authorized to sign this Resolution.

SECTION III. PRIOR ORDINANCES AND RESOLUTIONS:

The body and substance of any and all prior Resolutions, together with their specific provisions, where not otherwise in conflict with this Resolution, are hereby reaffirmed and readopted.

SECTION IV. REPEALER OF CONFLICTING ENACTMENTS:

All orders, and Resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Resolution, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

SECTION V - SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Resolution and the provisions of this Resolution being deemed to be the separate independent and severable act of the City Council of West Haven City.

SECTION VI. DATE OF EFFECT

This Resolution shall be effective immediately upon its passage on the 6th day of March 2024.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WEST HAVEN CITY, STATE OF UTAH, on this 6th day of March 2024.

WEST HAVEN CITY

Mayor Rob Vanderwood

ATTEST:

Emily Green
City Recorder

Mayor Rob Vanderwood
Councilmember Carrie Call
Councilmember Kim Dixon
Councilmember Nina Morse
Councilmember Ryan Saunders
Councilmember Ryan Swapp

Yes _____	No _____
Yes _____	No _____
Yes _____	No _____
Yes _____	No _____
Yes _____	No _____
Yes _____	No _____

DRAFT

STAFF REPORT

TO: Mayor, City Council, City Manager
FROM: Ed Mignone, City Engineer
DATE: February 26, 2024
SUBJECT: Update and Revisions to City Code Chapter 152: Streets and Public Property



Background

Staff believes that the current Chapter 152: Streets and Public Property does not address issues that are important to codify when it comes to allowing excavations within the public right-of-way, clarify permitted and unpermitted uses and impacts upon public sidewalks and public rights of way.

Issues specific to the City's permitting process, such as permit expiration, inspections, actions that may warrant a notice of violation/fee, revised permitting fee structure, additional requirements for excavations affecting roads that have been recently resurfaced or treated; as well as technology is now common, such as directional boring were previously presented to the Council in a previous staff report. A copy of the "Update and Revisions to City Code Chapter 152: Streets and Public Property Permit Right of Way Excavation and Related Fees," staff report, dated November 30, 2023, is attached for reference.

Staff has identified areas within the current ordinance that could be strengthened to:

- Better protect the City
- Better protect the resident
- Clearly specific permitted and unpermitted acts/actions
- Provide clear guidance with respect to the issuance of road (right of way) excavation permits and required restoration; provide City personnel with greater enforcement authority to execute requirements and add provisions where a stop work order could be necessary and imposed.

Discussion

The attached proposed revised ordinance has been retitled: Streets and Public Rights of Way – Maintenance, Obstructions, Excavations and Restoration. The proposed title provides more context for the scope of the ordinance and for the public to be able to search for pertinent provision.

On the face of it, the redlined version of the current ordinance appears extensive. Most of the additions, however, are specific "dos" and "don'ts." The ordinance has been restructured to make it easier to follow and combine sections where appropriate.

The most significant changes related to sidewalk maintenance; obstruction of public sidewalks; restoration of public property; patching and restoration policies, procedures, and guidelines, and enforcement; notices of violation, corrective actions, and stop-work orders.

The current ordinance section 152.50 concerns "excavation; clean fill sites." This essentially permitted landfilling of private properties within the City and allowed materials such as pieces or slabs of concrete, brick, steel rebar, and other similar non-toxic, inert, non-garbage material for the purpose of disposal, and in

MEMO

Amy Hugie/Emily Green

Re Update and Revisions to City Code Chapter 152: Streets and Public Property

age 2 of 2

some instances wood products, demolitions from buildings, siding, shingles, lumber, and tar paper. This is an obsolete practice and more pertinent regulations for the general import or export to or from a private property have been incorporated into Chapter 155 Stormwater Quality Management.

Sidewalk maintenance and obstructions now clearly identify the resident's and City's responsibilities for maintaining sidewalks and clearly addresses ambiguous or previously not included actions such as weed removals, snow removal, and prohibiting snow to be placed in the public right of way. These responsibilities have always been required; however, the language was not clear. This will greatly assist the public works department with their productivity and provide for city enforcement if deemed necessary.

Restoration of public property is a more technically detailed section for how excavations are to be conducted and restored. Specific provisions to ensure that permittees understand the expectations and requirements of how excavations are temporarily or permanently restored and provides a moratorium from opening streets that have been resurfaced or had surface treatment in the previous three (3) years. In cases where those streets need to be excavated, the City will require more extensive restoration to maintain the long-term integrity of those streets.

The current ordinance does provide authority to suspend, revoke or issue stop work orders with regard to right of way excavations. The proposed revisions clearly express what actions could be violations, provide defined authority to impose corrective actions and details the conditions and procedures if it becomes necessary to issue a stop-work order.

Recommended Action

Staff believes that it is in the City's best interest to replace the existing Chapter 152 as attached. The requirements added are not unique to West Haven and will ultimately protect the City, contractors, and residents as it relates to actions within public rights of way and sidewalks.

Staff recommends that the Council adopt the revised Chapter 152 as presented.

EJM/ejm

Attachment: Staff Report "Update and Revisions to City Code Chapter 152: Streets and Public Property Permit Right of Way Excavation and Related Fees," dated November 30, 2023

**ATTACHMENT TO FEBRUARY 26, 2024, STAFF REPORT
REGARDING CHAPTER 152: STREETS AND PUBLIC PROPERTY**

November 30, 2023 Staff Report Regarding Excavation and Related Fees (Chapter 152)

STAFF REPORT

TO: Amy Hugie/Emily Green
Co-Interim City Managers

FROM: Ed Mignone, City Engineer

DATE: November 30, 2023

SUBJECT: Update and Revisions to City Code Chapter 152: Streets and Public Property Permit
Right of Way Excavation and Related Fees



Background

The City has always required a permit for anybody that will excavate within the City rights-of-way. These generally entails conventional trenching for utilities but can also include directional drilling/boring. The Director of Public Works reviews and approves these permits and inspects or causes the inspection for key construction points such as backfilling and trench/asphalt repair.

There have not appeared to be any revisions to the various related fees since at least 1998. At that time, the application fee was \$15.00; the fee for failure to obtain a permit was \$50.00 and the street cut fee was \$0.47/sf for hard surfaces and lesser of \$0.05/sf or \$30. An inspection fee was included at \$25/hour.

Discussion

The current ordinance does not address issues that are important to codify when it comes to allowing excavations within the public right-of-way. These include Permit expiration, inspections, actions that may warrant a notice of violation/fee, additional requirements for excavations affecting roads that have been recently resurfaced or treated; as well as technology is now common, such as directional boring. Staff is nearing completion of a comprehensive update to Chapter 152 as a whole to address these issues.

Suggested fee categories include:

-
- Application Fee – The total fee covers the permit, review, and initial and final inspections.
 - Permit Renewal – for projects that continue past the thirty (30) day maximum duration
 - Permit Extension – In cases where problems arise and work cannot be completed by the deadline
 - Reinspection Fee – In cases where additional inspections may be required in excess of an initial and final (lack of compliance, complaints, etc.).
 - Working without a permit – A substantial fee intended to be either preventative or punitive. Without a permit the City would not necessarily be aware of any excavations being undertaken and unaware of significant issues such as traffic control, pedestrian safety, adequate temporary patching and ensuring an acceptable final patch.
 - Violation fee – The Ordinance provides for many standards and requirements in the permitting, conduct, maintenance, and final repairs for excavations. There are situations such as installing asphalt at improper temperature, daily cleanup, inadequate traffic/pedestrian controls which may warrant a notice of violation with a fee.
 - Street Cut Fee - Standard fee for excavations, typically a minimum fixed fee + additional costs based on the square footage disturbed.
-

Excavation Fee Comparison						
Fee	West Haven (Current)	West Haven (Current)	South Olden	Blountville	North Olden	Washington Terrace
Permit/Application Fee	\$50 + applicable excavation fees	\$150.00 includes application, review and initial and final inspections	\$75.00 + any applicable Road Cut Fees	\$75.00	\$75.00	\$110.00 + any applicable Road Cut/Barrie Fees
#1 - Excavation Shoulder, Gravel, Dirt Road	\$0.00 per square foot with a minimum charge for shoulder, (travel, or dirt road of \$30.00)	\$75.00 (easier restoration)				
#2 Excavation Hard Surface	\$15	N/A				
Right of Way	N/A	N/A				
Road Cut Fees	50.47 per square foot	\$2.50 per square foot	\$2.50 per square foot	\$50.00	\$2.50 per square foot	\$4.00 per square foot
Soft Surface Barrie Fee	N/A	N/A				\$189.92 per 1000 linear foot
Road Crossing Barrie Fee	N/A	N/A				
Additional Pothole Fee	N/A	\$50.00 per pothole				
New Pavement Cut Fee/Emergency Permit	N/A	\$500				
Punish for failure to obtain a permit before excavating	\$50	\$500.00 max	\$500.00 (road 3 years old or less)	\$500.00 (roads 2 years old or less)	\$500.00 (2 years or less)	\$235.75 per road crossing (up to 3 permits)
Inspection Fee for Road Cuts/Excavations	\$25.00 per hour	\$75.00 per hour	\$100.00	\$100.00	\$100.00	\$50.00 per pothole
Deposit						
Performance Bond				\$1,500.00		\$2,000.00
Major						\$50,000.00

ORDINANCE NO. 06-2024

AN ORDINANCE OF WEST HAVEN CITY, UTAH, AMENDING THE CITY CODE CHAPTER 152: STREETS AND PUBLIC PROPERTY; MAKING CERTAIN AND NECESSARY LANGUAGE CHANGES TO THE CITY CODE TO EFFECT THOSE CHANGES; AND ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.

Section 1. Recitals:

WHEREAS, West Haven City (herein “City”) is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, in conformance with UCA § 10-3-707, the governing body of the city may revise, codify and compile from time to time and to publish in book, pamphlet or loose leaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions as it may deem best; and,

WHEREAS, West Haven City has adopted and promulgated city ordinances and rules regarding streets and public property; and,

WHEREAS, the City Council finds that certain changes to the City Code regarding streets and public property should be made; and,

WHEREAS, the City Council held a public hearing regarding the proposed changes; and

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue in this matter and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST HAVEN CITY, UTAH that:

1. The **West Haven Code Chapter 152** titled “**STREETS AND PUBLIC PROPERTY**”, and all of its subsections, shall be repealed and replaced with **Chapter 152** titled “**STREETS AND PUBLIC RIGHTS OF WAY – Maintenance, Obstructions, Excavations, and Restoration**”, which new language is attached as “**Exhibit A**” to this Ordinance.

The foregoing Recitals are fully incorporated herein.

Section 2. Repealer of Conflicting Enactments:

All orders, ordinances and resolutions regarding the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which conflict with the

[illegible]

EXHIBIT A

**Chapter 152 titled “STREETS AND PUBLIC RIGHTS OF WAY – Maintenance,
Obstructions, Excavations, and Restoration”**

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**CHAPTER 152: STREETS AND PUBLIC RIGHTS OF WAY – Maintenance,
Obstructions, Excavations, and Restoration**

- § 152.001 Purpose and Intent
- § 152.002 Definitions
- § 152.010 Sidewalk Maintenance
- §152.011 Obstruction of Public Sidewalks
- §152.012 Obstruction of Public Rights of Way
- §152.020 Right of Way Excavation Permit: When Required
- §152.021 Right of Way Excavation Permit: Application
- §152.022 Right of Way Excavation Permit: Other Conditions and Requirements
- §152.023 No Transfer or Assignment of Permit
- §152.024 Other Permits
- §152.025 Emergency Work
- §152.026 Insurance Requirements
- §152.027 Bond; When Required, Conditions; Warranty
- §152.028 Impact of Excavations on Existing Improvements
- §152.029 Impact of Excavations on Existing Private Property Improvements
- §152.030 Restoration of Public Property; Patching and Restoration Policies, Procedures, and Guidelines
- §152.031 Hold Harmless Agreement; Limitations on City Liability
- §152.032 Tampering with Traffic Barricades
- §152.033 Conflict with Governing Provisions
- §152.090 Enforcement: Notice of Violation, Corrective Actions, and Stop-Work Orders
- §152.091 Effect of Enforcement Actions
- §152.092 Penalties

§ 152.001 PURPOSE AND INTENT.

(A) The intended purposes and objectives of this chapter are:

- (1) To establish reasonable controls and standards to prevent obstructions of public sidewalk and the safe operation and maintenance of same;
- (2) To prevent and regulate obstructions of or encroachments into public rights of way; and
- (3) To provide for reasonable and uniform limitations, safeguards, and controls on excavation within the City and ensure protection and restoration of property.

§ 152.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates, or requires, a different meaning.

APPLICANT. Any person who submits a complete application for a permit.

APPURTENANCES. Miscellaneous concrete surfaces within the public way, such as parking bays and carriage walks; miscellaneous components of storm/sanitary sewer systems (such as catch basins, manholes, valve boxes, etc.).

BUSINESS. Any place in the City in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

BUSINESS DAYS. A day other than Friday, Saturday, Sunday, or a legal holiday as based on the current designated hours of operation for West Haven City as determined by the City Council.

CITY. The City of West Haven, a municipal corporation of the State of Utah and those responsible for the implementation and enforcement of this chapter including the City Manager.

CITY ENGINEER. The City Engineer, or their authorized representative, and, where appropriate, includes the City Public Works Director or the authorized representative of any of them.

CITY STANDARDS. The most recent version of West Haven Public Works and Engineering Standards adopted by the City Council and as otherwise codified in this chapter.

EMERGENCY. Any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or property, or which causes interruption of utility services.

ENFORCEMENT OFFICIAL. The City Engineer, Public Works Director, Building Official, or Code Enforcement Officer.

EXCAVATION. Any activity that requires encroachment upon and will cause physical disturbance to public rights-of-way such as easements, public footpaths, walkways, trails, curb, curb cut, sidewalks, gutters, driveways, driveway approaches, public street, road, highways, alleys, and public drainage ways, including horizontal drilling, horizontal/vertical boring, potholing, and repair/replacement/installation of service connections.

FAILURE. A work site restoration that fails to meet City standards or specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. FAILURE may be settlement of surfaces, deterioration of materials, or other surface irregularities or an inability to serve its intended purpose.

INFRASTRUCTURE PROVIDER. A person providing to another, for the purpose of providing telecommunications services to customers, all or part of the necessary system that uses the rights-of-way.

MUTCD. Manual of Uniform Traffic Control Devices, latest edition.

OPERATOR. Any person who provides service over a telecommunications system and directly, or through one or more affiliates, owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

PERMITTEE. Any person who has been issued a permit and thereby has agreed to fulfill the requirements of this chapter.

PERSON. Any natural person; partnership; firm; association; public utility company; an operator, infrastructure provider, reseller, or system lessee; corporation; company; organization; or entity of any kind.

PIPE DRIVEWAY. A driveway approach which uses a pipe or other means to bridge the gutter.

PRIVATE DRAIN LINE. A pipe installed solely for the transmission of water collected or generated on private property, such as drainage, spring, or stormwater, or condensate into the public drainage system.

PROPERTY/PROPERTY OWNER. Person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property. Property or ownership may be public or private.

PROVIDER. An operator, infrastructure provider, reseller, system lessee, or public utility company.

PUBLIC UTILITY COMPANY. Any company subject to the jurisdiction of the State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility products or services for use by the general public.

RESELLER. Any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights-of-way.

RESIDENT. The person or persons currently making their home at a particular dwelling within the corporate limits of the City.

RIGHT OF WAY/PUBLIC WAY. All public rights-of-way and easements, public footpaths, walkways, trails, sidewalks, driveways, driveway approaches, public streets, roads, highways, alleys, drainage ways and municipal easements or easements to which the City has ownership and/or encroachment rights.

STORM DRAIN. A dedicated pipe, conduit, waterway, or ditch installed in a right-of-way or easement for the conveyance of storm and drainage water.

SYSTEM LESSEE. Any person that leases a system or a specific portion of a system to provide services.

TELECOMMUNICATIONS SYSTEM or SYSTEM. All conduits, manholes, poles, antennas, transceivers, amplifiers, and all other electronic devices, equipment, wire, and appurtenances owned, leased, or used by a provider located in the construction, ownership, operation, use, or maintenance of a telecommunications system.

TRAFFIC CONTROL PLAN. A written plan that may require the use of flaggers, variable message signs, lighting, etc. barricading and traffic-control practices to be in place for the duration of the work covered under the permit. The plan shall be in accordance with the most recent version of the MUTCD and City standards.

WHSSD. West Haven Special Service District.

WORK SITE RESTORATION. The restoring of the original ground or paved hard surface area which includes, but not limited to, repair, cleanup, backfilling, compaction and stabilization, paving, and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit and in conformance with City.

§ 152.010 SIDEWALK MAINTENANCE.

(A) Notwithstanding anything else within this chapter to the contrary, it shall be the responsibility of the owner or occupant of any real property with frontage upon any public sidewalk:

- (1) To remove all weeds and noxious vegetation from such property to the curb line of the street;
- (2) To keep the sidewalks along such property free from litter, snow, ice, or obstructions;
- (3) To remove snow and ice from the sidewalks within twenty-four (24) hours after a storm; and
- (4) To not throw, put, place, or cause to be thrown, put, or placed into, upon or within any improved right-of-way of any street or public way any snow and ice from said nonresidential lands:

- (a) In clearing driveway openings, snow shall be placed on the same side of the street as the driveway opening and off the travel-way so as not to restrict traffic movement or create a hazardous condition;
- (b) Snow from the length of private driveways shall not be pushed, or blown onto the City road travel-way but must remain on private property or on the parking strip so as not to impede the travel-way traffic movement;
- (c) Snow shall not be pushed across the City road and deposited on the roadside opposite the driveway;
- (d) Snow shall not be pushed/blown onto or dumped within the City road travel-way with the expectation that it will be removed or pushed aside by snowplows as roads are cleared; and
- (e) In the event that such snow or ice is not removed within the time limits set out in §152.01(A) the Public Works Director may remove or cause to have removed said snow or ice from in front of such lot or lots of land. A notice of violation may also be issued to the property owner. The City's direct and indirect costs shall be charged against such property owners.

- (B) It shall be unlawful for any person owning, occupying, or having control of any premise to place, or permit to be placed upon or in the sidewalk, parking area, gutter, or park strip:
 - (1) Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, water, garbage, or other like substances;
 - (2) Fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof; or
 - (3) Any permanent or temporary structure, mechanism, device, vehicle, or other thing of any kind or character except trees planted pursuant to the provisions of applicable ordinance.

§ 152.011 OBSTRUCTION OF PUBLIC SIDEWALKS.

It shall be unlawful to commit in or upon any public sidewalk or driveway approach any act or thing which is an obstruction or interference to safe pedestrian passage; or prevents the free and uninterrupted ingress, egress, and regress, therein, thereon, and thereto.

§ 152.012 OBSTRUCTION OF PUBLIC RIGHTS OF WAYS; RELOCATION OF ENCROACHMENTS.

- (A) It is unlawful for any person to install, alter, modify, or relocate facilities or structures within the public or encroaching thereon.
- (B) The City Engineer may direct the person owning or maintaining the facilities or structures, at their own cost and expense and upon reasonable written notice by the City, to promptly protect or promptly alter or relocate such facilities or structures or parts thereof.
- (C) In the event that such person refuses or neglects to comply with a directive of the City, the City shall have the right to break through, remove, alter, or relocate such part of the facilities or structures without liability to such person. Such person shall pay to the City all costs incurred by the City in connection with such work performed by the City, including design, engineering, construction, materials, insurance, court costs, and attorney's fees.

- (D) Any directive by the City Engineer shall be based upon whether facility or structure:
- (1) Was installed, erected, or is being maintained contrary to law;
 - (2) Is found by the City Engineer or Building Official to be structurally unsound or defective;
 - (3) Constitutes a nuisance as defined under state statute or City ordinance;
 - (4) Was installed under authority that has expired or has been revoked;
 - (5) Is not in conformity with public improvements proposed consistent with the General Plan of the City for the area;
 - (6) May pose a hindrance to construction to the public way to be repaired or improved; or
 - (7) Has caused the grades or lines of the public way to be altered or changed.

- (E) Installation of mailboxes meeting the standards of the U.S. Postal Service is permitted without obtaining a Permit from the City.
- (1) Mailboxes shall be placed so as to not interfere with public or private property access ways or drainage facilities;
 - (2) Mailboxes must be constructed and maintained so that routine public way maintenance such as snow plowing can occur without causing unnecessary damage to the mailbox;
 - (3) The City reserves the right to relocate, temporarily or permanently, any mailbox that is deemed a safety hazard or as needed to complete a City-approved project; and
 - (4) The City accepts no liability for mailboxes placed in the public right of way.

§ 152.020 RIGHT OF WAY EXCAVATION PERMIT: WHEN REQUIRED.

- (A) Excavations are any activities that will cause any physical disturbance within any public right of way. This includes, but not necessarily limited to, traditional excavation for the repair/replacement/installation of service connections or other infrastructure; street cutting, potholing, horizontal drilling, horizontal/vertical boring, and installation of conduit or facilities that require excavation for construction such as for installation of curb, curb cuts, gutter, sidewalk, driveways, driveway approaches or any other physical improvement undertaken within any public right of way.
- (B) It shall be unlawful for any person, other than the City or its authorized employees and agents, to commence excavation in any public way without obtaining a right-of-way excavation permit from the City Engineer.
- (C) Excavations under the definition of this chapter that are required or anticipated based on a City approval for a subdivision or site plan shall obtain a right of way excavation permit within existing City streets.
- (D) A permit is not required:
- (1) For hand-digging excavations for the installation or repair of sprinkler systems and landscaping within the non-paved areas of the public way that contain no public infrastructure. However, conformance to all City specifications is required; or
 - (2) For public utility providers providing routine maintenance, accessing their utility within the right of way, including exercising valves, checking manholes, and other work that does not require excavation and having given notice to the Public Works Director.

(E) Any work for which a permit is not required shall still be performed in accordance with City standards and specifications the Manual on Uniform Traffic Control Devices and other laws, regulations, and generally recognized practices of the industry.

(F) The City Engineer shall not issue any permit but only in the case of emergencies:

- (1) For excavation of any public streets, roads, highways, or alleys that were constructed, reconstructed, mill/repaved or overlaid, or had surface treatment in the prior three (3) years; and/or
- (2) Between November 1 and March 15.

(G) Boring is the preferred method for crossing paved City roads. Excavations shall not be approved unless it can be demonstrated that boring is infeasible or impractical as an alternative.

(H) Longitudinal excavations of paved City roads shall not be approved unless it can be demonstrated that all other alternatives are infeasible or impractical.

§ 152.021 RIGHT OF WAY EXCAVATION PERMIT: APPLICATION.

(A) Only the following persons shall be eligible to apply for and receive a right-of-way excavation permit:

- (1) Contractors licensed by the State of Utah as general contractors;
- (2) Providers;
- (3) Property owners installing, replacing, or maintaining less than five hundred (500) square feet or one hundred (100) linear feet of sidewalk, curb, and gutter, or driveway approach, or other work approved by the City Engineer, upon a portion of the public way adjacent to their residence; or
- (4) Persons offering a service which requires occupation of the public way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, or awnings, and painting or cleaning of buildings or sign boards, or other structures.

(B) Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits; provided, however, contractors may obtain the permit in the property owner's name.

(C) Any person desiring a right-of-way excavation permit must first file an application on forms prepared and furnished by the City Engineer.

(1) Content. A complete application shall include:

(a) Application Form contents:

- (i) Information regarding site ownership: contractor(s) that will conduct excavations and contact information for someone that will be available twenty-four (24) hours a day and other relevant information.

- (ii) Details of work to be conducted: All applications shall include excavation plans and details, showing the trench(es) detail including the length, width, and depth of the trench, the exact location and address of the trench(es) and the

- relationship of the trench(es) to the right of way lines, traffic lanes, intersections, signals, and structures.
- (iii) To fully determine the relationship of the work proposed to existing or proposed facilities within public rights of way, or to determine whether the work proposed complies with the engineering regulations, construction specifications, and design standards, the City Engineer may require the filing of engineering plans, specifications, and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.
 - (iv) Traffic Control Plan/Measures – A traffic control plan, if required by the City Engineer.
 - (v) Copy of City Stormwater Construction Activity permit, if applicable and in compliance with Chapter 155: Stormwater Management.
 - (vi) For potholing, locations shall be indicated on a map and Permittee must also provide machinery to be used, size, and depth of potholes and purpose(s).
- (b) Bonds and Insurance: All applications shall include the requisite, bonds and insurance certificates as more particularly set forth in this chapter.
- (c) Remittance of fees;
- (d) The City Engineer may require a mandatory on-site preconstruction meeting no later than twenty-four (24) hours prior to work starting or earlier if a traffic control plan is required.
- (2) Directional Bore, Additional Requirements. Any person wanting to conduct directional bore work within the City shall be required to provide, in addition to the above, the following information:
- (a) Plans. Engineered, detailed plans showing:
 - (i) Locations of all excavations (including bore pits, vaults, hand-hold boxes, pedestals, etc.).
 - (ii) Bore path (dimensioned off of back of curb or sidewalk).
 - (iii) All utilities that are crossed or running in close proximity to the proposed bore.
 - (iv) These plans must either be produced by a company that currently has a franchise agreement with the City or stamped by a professional engineer licensed in the State of Utah.
 - (b) The Applicant shall record, maintain, and provide copies of all bore logs to the City.
 - (c) All sanitary sewer laterals that are crossed by a directional bore shall be video inspected for damage after the bore and provided to the WHSSD Superintendent.
 - (i) A video inspection may be required for other reasons at the discretion of the City Engineer or WHSSD Superintendent to verify that a City utility lateral or main has not been damaged in the process of the bore.
 - (d) Utility and Infrastructure Repairs. The Permittee shall be responsible for damage or destruction to property and/or utilities during the course of construction, including pipelines, culverts, conduits, cabling, asphalt, and concrete pavement. Such damage must be repaired as soon as practicable and restored to a condition equal to or better than it was prior to initiating boring.

(e) Landscape Restoration and Repairs. In addition to any patching, pavement, or other restoration:

- (i) Landscaping at bore-pit locations or any other locations damaged or disturbed by contractor MUST be restored to a condition equal to or better than it was previous to the bore job; and
- (ii) Any components of an irrigation or sprinkler system (pipe, control wire) that are damaged as a result of permitted directional bore work must be repaired immediately upon discovery. Testing of sprinkler (or irrigation) systems crossed by the bore is a requirement to finalize the permit and close out work.

(f) Mandatory Preconstruction Meeting. A mandatory on-site Preconstruction Meeting is required for all directional boring in the City at least forty-eight (48) hours (two business days) prior to work starting.

(B) The City Engineer may require written notice to be provided to any resident or business within five hundred (500) feet of the center of trench. Additional public notice may be required if conditions warrant.

(C) In approving or disapproving work within any public way, or permits therefor, in the inspection of such work; in reviewing plans, sketches, or specifications; and generally in the exercise of the authority conferred upon them by this chapter, the City Engineer shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of Permittees and applicants or other persons which have no relationship to the use, preservation, or protection of the public way.

(D) The decision by the City Engineer to issue a right of way excavation permit shall include, among other factors determined by the City, the following:

- (1) The capacity of the public right of way to accommodate the facilities or structures proposed to be installed in the public right of way;
- (2) The capacity of the public right of way to accommodate multiple wire in addition to cables, conduits, pipes, or other facilities or structures of other users of the public right of way, such as electrical power, telephone, gas, sewer, and water;
- (3) The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the public right of way; and/or
- (4) The public interest in minimizing the cost and disruption of construction from numerous excavations of the public right of way.

(E) The City Engineer may deny the issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance that, in the opinion of the City Engineer, they will not consistently conform to the engineering regulations, specifications, design standards, or the requirements of this chapter.

(F) Appeals: The disapproval or denial of an application by the City Engineer may be appealed by the applicant to the City Manager in the following way:

- (1) A written notice of appeal must be filed with the City Manager within five (5) business days of the denial by the City Engineer.

- (2) The City Manager shall set a date for an informal hearing to consider the appeal. The City Manager shall hold the informal hearing and shall allow the appellant to present evidence regarding whether an error occurred in the interpretation or implementation of this chapter.
- (3) The City Manager shall render a written decision on the appeal within five (5) business days of the informal hearing with the appellant.
- (4) The City Manager shall uphold the decision of the City Engineer unless the City Manager finds that there has been an error in the interpretation or implementation of this chapter.
- (5) Any decision of the City Manager issued hereunder may be appealed to the City Council by filing a written notice of appeal within ten business (10) days from the date of the final decision issued by the City Manager.
- (6) The City Council shall hear such appeal as soon as practicable, if the written request therefore is timely filed, and render its written decision within three (3) weeks following notice of such appeal.
- (7) The City Council shall uphold the decision of the City Manager unless the City Council finds that there has been an error in the interpretation or implementation of this chapter.
- (8) A finding in favor of an appellant does not hold the City responsible for direct or indirect costs incurred by the Permittee during the time the stop-work order was imposed.

§ 152.022 RIGHT OF WAY EXCAVATION PERMIT: OTHER CONDITIONS AND REQUIREMENTS.

(A) Application and Permit Fees.

- (1) The City shall charge fees for the cost to review the application, necessary site inspection(s), and general oversight of restoration with the work performed. Fees shall include: permit/application fee; excavation: shoulder, gravel, dirt road, excavation hard surface; road cut fee; soft surface boring fee; pothole fee; new pavement cut fee/emergency permit; and inspection fees.
- (2) Fees are in accordance with the most recent Consolidated Fee Schedule adopted by the City Council.
- (a) The City Engineer may require additional charges to be assessed to cover the reasonable cost and expenses of any required engineering review, inspection, deterioration of the public way or diminution of the useful life of the public based on the scope, complexity, and degree of impact to the public right of way.
- (3) The City Engineer may waive permit fees or penalties, or a portion thereof, provided for in this chapter when they determine that such permit fee or penalty:
- (a) Pertains to the construction or rehabilitation of housing for persons whose income is below the median income level for the City; or
- (b) Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the City's strategic plan, General Plan, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

(B) Permit: Duration, Extensions.

- (1) Each permit shall be effective as of the starting date indicated in the application. Permits shall expire ten (10) business days from the starting date or as otherwise directed by the City Engineer.
- (2) If once commenced, the Permittee expects work to continue in excess of ten (10) business days, the Permittee must file a permit renewal request with the City Engineer.
- (3) Prior to commencing, if work is expected to exceed ten (10) business days, the City Engineer may require the Permittee to submit a detailed construction schedule prior to approval. The schedule will address means and methods to minimize traffic disruption, maintain safe vehicular and pedestrian travel, and complete the construction as soon as reasonably possible.

(C) General Conditions.

- (1) Hours of operation for permitted work shall not begin before 7:00 am and shall end before 7:00 pm, Monday through Friday. The City Engineer may modify hours of operation or authorize night or weekend work if special conditions warrant.
- (2) All excavations shall be conducted in a manner resulting in a minimum amount of interference with or interruption of street or pedestrian traffic.
- (3) Inconvenience to residents and businesses fronting on the right of way shall be minimized.
- (4) Prior to any work in front of driveways, the Permittee shall notify the property owner in writing at least twenty-four (24) hours in advance.
 - (a) Inconvenience caused by construction across driveways and sidewalks shall be kept to a minimum by restoring the serviceability within twenty-four (24) hours, or as otherwise approved by the City.
 - (b) If it is necessary to leave open excavation for a longer period of time, the Contractor shall provide structurally adequate steel plates to bridge the excavation.
- (5) All trench and pavement cuts shall be made by sawcut or by grinding. Sawcuts or grinding shall be a minimum of one foot (1') outside the trench width. The top two inches (2") of asphalt shall be ground down to a minimum distance of one foot (1') beyond the actual outside edges of the trench and shall be replaced with two inches (2") of Class B asphalt.
- (6) The maximum amount of open trench permitted in any one location shall be two hundred (200) feet, or the length necessary to accommodate the amount of pipe installed in a single day, unless otherwise approved by the City.
- (7) Construction of manholes or other appurtenances requiring added construction and cure time may be left unpaved for additional time provided they are properly barricaded. The City may adjust these limits if conditions warrant.
- (8) A clear pedestrian path of a width of at least ten (10) feet must be maintained throughout the duration of the permit. Safe pedestrian routes must be established and maintained and may require the use of signage, barriers, lighting, public notification, etc., as directed by the City Engineer.
- (9) Suitable, adequate, and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons.
- (10) Barricades must be in place until all of the Permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary restoration is in place.

- (11) From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, torches, or other means to maintain visibility.
- (12) All open trenches within the public way shall be barricaded and covered in conformance with the MUTCD.
- (13) Where a job site is left unattended before completion of the work, signage with minimum two-inch-high letters shall be attached to a barricade or otherwise posted at the site, indicating the Permittee's name or company name, telephone number, and after-hours telephone number.
- (14) If a separate traffic control plan was required by the City Engineer and the Public Works Director, the Weber County Sheriff Department and Weber County Fire Department shall be notified no less than seventy-two (72) hours in advance of any planned excavation requiring street full or partial closure and/or traffic detour.
- (15) Prior to the estimated completion date in the permit, the City may determine that weather or other conditions are not conducive to the timely completion of restoration of the public way and may suspend the permit at the City's discretion until such conditions improve.
- (16) If during the duration of the permit, the Permittee wants to temporarily suspend work due to weather or other conditions, the Public Works Director shall be notified, and the expiration of the permit extended accordingly.
- (17) Any directive or demand by the City shall not be construed to express or imply the City's financial participation in said directive or demand. Unless described in a signed agreement with the City, clearly stating the City's intent to participate financially in the work, all costs associated with the permit and work are the sole responsibility of the Permittee.

§ 152.023 NO TRANSFER OR ASSIGNMENT OF PERMIT.

- (A) Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit or work outside of approved scope.
- (B) Nothing herein contained shall prevent a Permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance, and other requirements of this chapter and under said permit.

§ 152.024 OTHER PERMITS.

- (A) Excavation that will be performed on highways not owned or under the jurisdiction of the City, but under the jurisdiction of other governmental entities located within the City limits, shall, nonetheless, be required to obtain permits from the City under the provisions of this chapter.
- (B) Approval of any City right of way excavation permit shall not be construed to permit or allow work on a county road or a state highway within the City without an applicable county or state permit. A copy of an approved permit issued by the requisite jurisdiction must be submitted with the City application.

- 492
493 (C) Any person exempt from obtaining a City permit that intends on excavating rights of way
494 under jurisdiction other than the City shall notify the City Engineer prior to the
495 commencement of such work. The City shall be invited to any preconstruction meetings
496 required by the permitting authority.
497

498 **§ 152.025 EMERGENCY WORK.**

- 499 (A) Any public utility company or provider that owns, operates, or leases pipes, lines, or
500 facilities in the public way may proceed with excavation for existing facilities without a
501 permit when emergency circumstances demand the work to be done immediately, and a
502 permit could not reasonably and practicably have been obtained beforehand, and shall
503 make applications no later than the next business day.
504
505 (B) Excavation required by a resident or business owner may proceed without a permit when
506 emergency circumstances demand the work to be done immediately and provided a permit
507 could not reasonably and practicably have been obtained beforehand and will make
508 application no later than the next business day.
509
510 (C) In the event that emergency work is commenced on or within any public way of the City
511 during regular business hours, the Public Works Director shall be specifically notified within
512 one hour from the time the work is commenced. The person commencing and conducting
513 such work shall take all necessary safety precautions for the protection of the public and the
514 direction and control of traffic and shall ensure that work is accomplished according to City
515 Engineering regulations, the Manual on Uniform Traffic-Control Devices, and other
516 applicable laws, regulations, or generally recognized practices in the industry.
517
518 (D) Any person, public utility company or provider commencing emergency work in the public
519 way during other than business hours without a permit shall give notice to the Public Works
520 Director specifically during the first hour of the first regular business day on which City
521 offices are open for business after such work is commenced and apply for a permit. A
522 permit for such emergency work may be issued, which shall be retroactive to the date when
523 the work was begun, at the discretion of the City Engineer.
524
525 (E) Any emergency work conducted on a road, street, highway, or alley that has been
526 constructed, reconstructed, mill/repaved, overlaid or had any surface treatment(s) applied
527 in the prior three (3) years are subject to additional patching and restoration requirements
528 in accordance with City standards.
529

530 **§ 152.026 INSURANCE REQUIREMENTS.**

- 531 (A) Before a permit is issued, the applicant shall furnish to the City evidence that such applicant
532 has a comprehensive general liability and property damage policy that includes contractual
533 liability coverage or with such alternative limits and provisions as may be approved by the
534 City Manager, after consulting with the City Attorney:
535 (1) A minimum of one million dollars (\$1,000,000) combined single limit per occurrence for
536 bodily injury, personal injury, and property damage and not less than one million dollars

- 537 (\$1,000,000) in the aggregate. The general aggregate limit shall apply separately to the
538 permit, or the general aggregate limit shall be two (2) times the required occurrence
539 limit.
- 540 (2) The coverage shall be in the nature of broad-form commercial general liability coverage.
- 541 (3) The City Attorney may require increased or decreased minimum insurance limits,
542 depending on the potential liability of any project.
- 543 (4) All policies shall include the City, its employees, officers, officials, agents, volunteers, and
544 assigns as insureds. Any reference to the City shall include the City, its employees,
545 officers, officials, agents, volunteers, and assigns.
- 546 (5) The coverage shall be primary insurance in respect to the City, its employees, officers,
547 officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by
548 the City, its employees, officers, officials, agents, volunteers, and assigns shall be in
549 excess of the Permittee's insurance and shall not contribute to or with it.
- 550 (6) The Permittee shall include all subcontractors as insured under its policies or shall
551 furnish separate certificates and endorsements for each subcontractor. All coverage for
552 subcontractors shall be subject to all of the requirements stated herein.
- 553 (7) Any failure to comply with reporting provisions of the policy shall not affect coverage
554 provided to the City, its employees, officers, officials, agents, volunteers, and assigns.
- 555 (8) Coverage shall state that the Permittee's insurance shall apply separately to each
556 insured against whom claim is made or suit is brought, except with respect to the limits
557 of the insurer's liability.
- 558 (9) Underwriters shall have no right of recovery or subrogation against the City, it being the
559 intent of the parties that the insurance policy so affected shall protect both parties and
560 be primary coverage for any and all losses covered by the described insurance.
- 561 (10) The insurance companies issuing the policy or policies shall have no recourse against the
562 City for payment of any premiums due or for any assessments under any form of any
563 policy.
- 564 (11) Each insurance policy shall be endorsed to state that the coverage shall not be
565 suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30)
566 days' prior written notice by certified mail, return receipt requested, sent to the City.
- 567 (12) Each policy shall be endorsed to indemnify, save harmless, and defend the City and its
568 officers and employees against any claim or loss, damage, or expense sustained on
569 account of damages to persons or property occurring by reason of permit work done by
570 the Permittee, or their subcontractor or agent, whether or not the work has been
571 completed and whether or not the right-of-way has been opened to public travel.
- 572 (13) Each policy shall be endorsed to indemnify, hold harmless, and defend the City and its
573 officers and employees against any claim or loss, damage, or expense sustained by any
574 person occurring by reason of doing any work pursuant to the permit, including, but not
575 limited to, falling objects or failure to maintain proper barricades and/or lights as
576 required from the time work begins until the work is completed and the right-of-way is
577 opened for public use.
- 578 (14) Insurance is to be placed with insurers with an AM Best rating of no less than an A
579 carrier, with a rating of "T" or higher (with a rating of seven (7) or higher).
- 580 (15) The Permittee shall furnish the City with certificates of insurance and original
581 endorsements affecting coverage required by the permit. The certificates and

endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City expressly reserves the right to require complete, certified copies of all required insurance policies at any time. However, the Permittee shall provide such copies prior to the issuance of the permit.

- (B) If any of the required policies are, or at any time become, unsatisfactory to the City Manager or City Attorney as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the City Manager or City Attorney, the Permittee shall promptly obtain a new policy, submit the same to the City Manager for approval, and thereafter submit verification of coverage as required by the City Manager or City Attorney. Upon failure to furnish, deliver, and maintain such insurance as provided herein, the City Manager or City Attorney may declare the permit to be in default and pursue any and all remedies the City may have at law or in equity, including those actions outlined in this chapter.
- (C) Any deductibles or self-insured retentions shall be declared to and approved by the City Manager or City Attorney. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the City, its employees, officers, officials, agents, volunteers, or assigns, or the Permittee shall procure a bond, in a form acceptable to the City Manager or City Attorney, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- (D) A property owner performing work adjacent to their residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.
- (E) A public utility company provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances, if such company shall submit satisfactory evidence in advance that:
- (1) It is insured in the amounts set forth in this chapter or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit;
 - (2) Said coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter; or
 - (3) The work to be performed under the permit issued to the applicant is to be performed by the City, in which case, the insurance requirement shall be negotiated between the City Manager and the applicant by separate agreement.
- (F) This chapter shall neither be construed as imposing upon the City, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the City, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

§ 152.027 SECURITY: WHEN REQUIRED, CONDITIONS, WARRANTY.

- (A) Except as noted in this chapter, each applicant, before being issued a permit, shall provide the City Manager with an acceptable security (hereinafter the "bond") in the form of either a cash bond or secure letter of credit or other financial protection acceptable to the City Attorney.
- (B) Public utilities franchised or authorized by separate agreement with the City shall not be required to file a security if such requirement is expressly waived in the franchise documents or other acceptable right of way use agreement or license, or if such bond(s) has been provided with the franchise grant or other acceptable right of way use agreement or license.
- (C) All other contractors shall, at a minimum, provide security in the sum of two thousand dollars (\$2,000.00). The city shall hold this deposit or guarantee for a period of twenty- four (24) months as surety against any defects or workmanship.
- (D) The amount of the bond required may be increased at discretion of the City Engineer based on the amount and cost of the work to be performed and the limits and types of disturbances.
- (E) The bond required by this section shall be conditioned as follows:
- (1) The Permittee shall fully comply with the requirements of the City ordinances and regulations, specifications, and standards promulgated by the City relative to work in the public way, and respond to the City in damages for failure to conform therewith;
 - (2) After work is commenced, the Permittee shall proceed with diligence and expedition, and shall promptly complete such work and restore the public way to construction specifications so as not to obstruct the public place or travel thereon more than is reasonably necessary;
 - (3) Upon acceptance of restoration by the City Engineer, the City shall notify the Permittee of the start date of the warranty assurance for a period of one (1) year from completion of such work, with reasonable wear and tear excepted; and
 - (4) Upon completion of the warranty period, the Permittee shall notify the City Engineer in writing that the work is ready for final inspection. If the work is found to be in satisfactory condition, the City Manager shall authorize release of the bond or refund the cash escrow deposit within sixty (60) days of the written notification.
- (F) The security may be forfeited in whole or in part as follows:
- (1) The work is deemed a failure and there is no response within five (5) business days from the date the Permittee is provided written notice to cure; or
 - (2) An emergency or unsafe condition arises as a result of the failed work in that notification to the Permittee would further jeopardize public safety, in which case the City may use all or part of the surety or deposit to correct the unsatisfactory work; or
 - (3) The Permittee fails to request a final inspection and ninety (90) days lapse after the warranty period, in which case the City shall consider the permit abandoned and the surety or deposit forfeited to the City in full.

(G) The warranty period does not exempt the Permittee from the responsibility to respond and cure any defects in restoration at any time after being notified by the City.

(H) If the Permittee fails to respond to or cure any defects in restoration, the City may undertake or take cause to undertake necessary work to ensure public safety and all direct and indirect costs incurred shall be recovered from the warranty surety.

§ 152.028 IMPACT OF EXCAVATIONS ON EXISTING IMPROVEMENTS.

(A) If a proposed excavation within the public right of way is within the vicinity of critical infrastructure, the City may, at its sole discretion, deny the permit, or the City may charge the Permittee for a City inspector to be continuously on site during any permit work done in this vicinity.

(B) If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users and consistent with City standards for such.

(C) Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface or plated at the discretion of the Public Works Director specifically until such time as the permanent repairs are completed.

(D) Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt the flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the Director of Public Works specifically prior to the blockage of the channel.

(E) The requirements imposed upon the Permittee extend to any subcontractor or independent contractor that the Permittee might employ to perform the tasks pursuant to the permit.

§ 152.029 IMPACT OF EXCAVATIONS ON EXISTING PRIVATE PROPERTY IMPROVEMENTS.

(A) The City reserves the right to utilize the rights of way as the City deems appropriate. Where excavations are made which impact private property/owner improvements that have encroached upon the Public Way, the Permittee shall be responsible, as directed by the City, to ensure that such improvements are returned, replaced, and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.

(1) The determination of what is considered a "comparable condition" will be at the sole discretion of the City.

(2) The City shall not be responsible for private improvements constructed in or encroaching on the Public Way.

- (B) At any time a Permittee disturbs the yard, residence, or the real or personal property of a private property owner or the City, such Permittee shall ensure that such property is returned, replaced, and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.
- (C) The costs associated with the disturbance and the return, replacement, and/or restoration shall be borne by the Permittee. Further, a Permittee shall reimburse the property owner or the City for any actual damage caused by the Permittee, their subcontractor, or their independent contractor, in connection with the disturbance of such property.
- (D) Nothing in this section shall require the Permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the Permittee remove, replace, or relocate improvements associated with the service provided by the Permittee to the property owner, and when the Permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the Permittee on which the Permittee relied to their detriment.
- (E) Examples of acts specifically included in this section, but not necessarily limited to, are the following:
- (1) Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fences;
 - (2) Installing, trenching, repairing, replacing, removal, or locating equipment, cables, or other appurtenances of the Permittee;
 - (3) Installation or removal of equipment or other appurtenances of the Permittee's system within a private property owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the Permittee;
 - (4) Temporarily relocating or moving a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, air conditioning or heating unit, or the like) in order to perform some sort of construction, maintenance, or repair by the Permittee; or
 - (5) Permanently removing a Permittee's equipment or other appurtenances due to the revocation, termination, or non-renewal of the franchise (if applicable).
- (F) The requirements imposed upon the Permittee extend to any subcontractor or independent contractor that the Permittee might employ to perform the tasks pursuant to the permit.
- (G) The requirements of this section shall not apply to the removal by a Permittee of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the City granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the County Recorder.

§ 152.030 RESTORATION OF PUBLIC PROPERTY; PATCHING AND RESTORATION POLICIES, PROCEDURES, AND GUIDELINES.

- (A) The Permittee shall, at their own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and

depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations, design standards, and specifications promulgated by the City and shall be accomplished within the time limits set forth in the permit, unless otherwise modified by the City.

(B) Temporary Surfacing. Temporary surfaces are a critical component in maintaining highway and worksite safety. They can significantly reduce potential life-safety hazards and minimize collateral damage to adjacent road surfaces when properly installed.

(C) No trenches shall remain open overnight or for cessation of work of more than eight (8) hours.

(D) Requirements governing the proper use and installation of temporary surfacing include:

- (1) Temporary asphalt surfaces are required on any street opening if the final/permanent surface is not installed at the end of each workday.
- (2) Temporary restoration of trenches for overnight use shall be accomplished by using MC mix (cold mix), Asphalt Treated Base (ATB), or steel plates, as approved by the City.
- (3) Regardless of method, the trench must be filled flush with asphalt to provide a smooth riding surface.
- (4) The City may approve steel plates:

(a) When backfill operations of an excavation in the traveled way, whether transverse or longitudinal, cannot be properly completed within a workday, steel plate bridging with non-skid surface and shoring may be required to preserve unobstructed traffic flow;

(b) The Permittee shall ensure that plating is structurally safe and adequate, but in no case less than the following requirements:

<u>Trench Width</u>	<u>Minimum Plate Thickness</u>
Up to twelve (12) inches	$\frac{1}{2}$ "
> 12" and < 24"	$\frac{3}{4}$ "
> 24" and < 30"	1"
> 30" and < 60"	1 $\frac{1}{4}$ "

(c) Plates must be milled into the asphalt, so they are flush with the existing surface and placed using mastic and secured to the existing pavement by mechanical means;

(d) Plates should be welded together whenever possible to avoid slippage and pinned in place using approved dowels;

(e) Approach plate(s) and ending plate (if longitudinal placement) shall be attached to the roadway by minimum of two dowels through pre-drilled holes in the corners of the plate and drilled at least three inches (3") into the pavement. Subsequent plates are butted to each other.

(f) Fine graded asphalt concrete shall be compacted to form ramps, maximum (slope eight and one-half percent (8.5%) with a minimum of twelve-inch (12") taper) to cover all edges of the steel plates. Hot or cold mix asphalt must be placed around the perimeter surface of the plate;

(g) When steel plates are removed, the dowel holes in the pavement shall be backfilled with either graded fines of asphalt concrete mix or concrete slurry or equivalent slurry that is approved by the City Engineer;

- (h) The contractor is responsible for maintenance of steel plates, shoring, asphalt concrete ramps, and ensuring that they meet minimum specifications; and
- (i) Install signage W8-24 "Steel Plate Ahead" when steel plates are placed on the roadway, and place sign WI-1 "Bump" with a W16-7P diagonal downward pointing arrow adjacent to the steel plate.

(E) Work Site Restoration. Unless authorized by the City Engineer, all paving, resurfacing, or replacement of street facilities shall be done:

- (1) Within three (3) calendar days or within seven (7) calendar days from the time the excavation commences on all other streets; or
- (2) Except as provided for during weather conditions which do not allow paving according to engineering regulations, including emergency permits issued between November 1 and March 15.

(F) The type and extent of site restoration is based on the location, width, depth, condition of road, number of excavations and distance between excavations.

(1) Perpendicular Cuts.

- (a) A "T" patch shall be made where the asphalt shall be removed and replaced a minimum of:
 - (i) Two feet (2') beyond the limits of any excavation, including undermining, where the excavation is up to four feet (4') in depth;
 - (ii) Three feet (3') beyond the limits of any excavation, including undermining, where the excavation is more than four feet (4') in depth;
 - (iii) Match the thickness of the existing aggregate base; and
 - (iv) Match the thickness of the existing asphalt plus one inch (1"), provided that the asphalt patch may not have a thickness of less than four inches (4") or more than seven inches (7").
- (b) On collector and arterial roads, perpendicular cuts shall extend to the full width of any travel lane regardless of the age of the road.
- (c) When multiple cuts are made in the same location, the asphalt shall be milled and overlaid between patches that are thirty feet (30') or closer to one another.
- (d) When three (3) or more cuts are made, a chip seal and fog coat shall be placed over the top of the patches. The chip seal shall extend across all patches and shall be the full width of the road.

(2) Longitudinal/Parallel Cuts.

- (a) Parallel cuts shall meet the same requirements as under Section 152.030(E)(1).
- (b) Any parallel cuts that affect a travel lane shall be patched or overlaid to the width of the travel lane regardless of the age of the road.
- (c) If the outside of the trenching is within three feet (3') of any adjacent lane line, the entire adjacent traveled lane affected will be overlaid.
- (3) Excavations on a road under a moratorium due to road construction or reconstruction within the past five (5) years or application of a seal coat within the past three (3) years.
 - (a) A fifty foot (50') wide road patch shall be installed on either side of the excavation with the road patch extending across the entire width of the roadway; and

- 850 (b) If the roadway is under a chip seal coat moratorium, the Permittee shall also reapply
851 the seal coat over the patch.
- 852 (4) Requirements for Paving Installed During Winter.
- 853 (a) During the winter months when local hot mix asphalt plants are closed, cold patch is
854 used to patch road cuts.
- 855 (b) Winter Paving Plans. Winter Paving Plans are required for all pavement cuts in the
856 City Right-of-Way installed between November 1 and March 15.
- 857 (c) Winter Paving Plans shall include, but are not necessarily limited to:
- 858 (i) Project-related information, including Permit Number, Job Address, Contractor,
859 Temporary Patch Type, and Install Date. Temporary patches other than asphalt
860 cold patch must be approved by the Public Works Director or City Engineer.
- 861 (ii) Cold patch (temporary patch) must be regularly checked and maintained by
862 contractor throughout the winter months until a permanent patch is installed. If
863 the patch is damaged or destroyed, the contractor must replace it immediately.
- 864 (iii) Patch must be flush to the road surface when installed. If the patch is raised
865 above the road surface and causes damage to City snow-removal equipment, the
866 contractor shall be held liable for damages.
- 867 (iv) Permanent Patch Plans for installing permanent patch shall include, but are not
868 necessarily limited to:
- 869 (aa) Asphalt plant source for the hot mix;
870 (bb) Paving subcontractor;
871 (cc) Company performing the compaction tests; and
872 (dd) Anticipated install date for the hot mix patch.
- 873
- 874 (d) Cold patch shall be removed and replaced with a hot mix asphalt patch meeting the
875 requirements of this chapter no later than May 15.
- 876 (5) Potholing/Boring.
- 877 (a) Potholing and boring restoration shall meet the same requirements as trenching and
878 pavement restoration.
- 879 (b) Potholing shall be a minimum of one foot (1') beyond the excavation. All affected
880 lanes will be ground down to a depth of two inches (2") and paved not less than six-
881 and one-half feet (6.5') wide for the entire width of the lane.
- 882 (c) Potholes greater than five feet (5') in length, width, or diameter shall be restored to
883 trench restoration standards.
- 884 (d) Restoration requirements utilizing vector equipment will be determined by the City.
- 885 (6) Other requirements
- 886 (a) Permittees will be required to provide a batch ticket from the asphalt plant specific
887 to the asphalt that is being installed in the permanent patch to confirm mix being
888 applied. No permanent patch will be accepted without batch ticket.
- 889 (b) Permittees shall measure and record the ambient temperature and the temperature
890 of the asphalt as it is being placed. If the asphalt mix temperature has dropped
891 below the minimum required temperature set forth in City standards, it cannot be
892 used in a permanent patch.
- 893 (c) Hot mix design for permanent asphalt patches shall be in conformance with City
894 standards. Any material placed as a pavement patch that does NOT meet the

specified standards will be considered "temporary" and must be replaced with a conforming permanent patch within seven (7) days.

- (d) Concrete placed in the public way shall be in conformance with City Standards. If concrete is found not to be in conformance, it will be rejected and must be replaced with a cold weather mix approved by the City Engineer or Public Works Director.
- (e) Failure to Install Permanent Patch. If the contractor has not installed the required permanent patch and has not contacted the Public Works Director or City Engineer in writing of an installation date, the City Engineer may revoke the permit. The City will use the permit bond to engage another contractor to finish the work.
- (f) The City has the right to determine in the field that a full street-width (edge-of-pavement to edge-of-pavement) overlay is required due to changes in the permit conditions such as, but not limited to the following:
 - (i) There has been damage to the existing asphalt surface due to the contractor's equipment.
 - (ii) The trench width was increased significantly, or the existing pavement is undermined or damaged.
 - (iii) Any other construction related activities that require additional pavement restoration.

§ 152.31 HOLD HARMLESS AGREEMENT; LIMITATIONS ON CITY LIABILITY.

- (A) The Permittee agrees to hold the City, its officers, employees, and agents harmless from any and all costs, damages, and liabilities which may accrue or be claimed to accrue by reason of any work performed under any permit issued under authority of this chapter. The issuance and acceptance of any permit under this chapter shall constitute such an agreement by the Permittee to this section.
- (B) This chapter shall neither be construed as imposing upon the City, or its officers, employees, and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this subchapter, nor shall the City, its officers, officials, employees, agents, volunteers, or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.
- (C) The hold harmless agreement shall remain in force during the permit warranty period.

§ 152.032 TAMPERING WITH TRAFFIC BARRICADES.

It shall be unlawful for any person to maliciously or wantonly, or without authorization and legal cause, extinguish, remove, or diminish any light illuminating any barricade or excavation, or to tear down, remove, or in any manner alter any rail, fence, or barricade protecting any excavation or other construction site.

§ 152.033 CONFLICT WITH GOVERNING PROVISIONS.

Should there be a conflict between the provisions of this ordinance and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a public right of way, the more restrictive provisions of the aforesaid documents shall apply.

§ 152.090 ENFORCEMENT: NOTICE OF VIOLATION, CORRECTIVE ACTIONS, AND STOP WORK ORDERS.

(A) The City Engineer and Public Works Director shall have the authority to issue notices of violation under this chapter.

(B) Notices of violation may be issued, and fines and penalties imposed for:

- (1) Violation of any condition of the permit, the bond, or of any provision of this chapter;
- (2) Violation of any provision of any other ordinance of the City or law relating to the work;
- (3) Existence of any condition, or the doing of any act, which does constitute, may constitute, or causes a condition endangering life or property;
- (4) Failure to conform to City design standards; and/or
- (5) Excavating in the right of way without a permit.

(C) Other enforcement actions that may be imposed include:

- (1) Revocation or suspension of permit;
- (2) Full stop work order;
- (3) Conditional stop work order;
- (4) Order removal and replacement of faulty work or restoration; and/or
- (5) Require an extension of the warranty period.

(D) Nothing shall preclude the Code Enforcement Officer from issuing notices of violation and imposing finds under their jurisdiction, including City Code, Chapter 90: Health and Sanitation; Nuisances.

§ 152.091 EFFECT OF ENFORCEMENT ACTIONS.

(A) A suspension or revocation of the permit shall have the same effect as the issuance of a stop-work order.

(B) A stop-work order shall take effect immediately upon entry thereof by the Public Works Director or the City Engineer, and notice given to the person performing the work in the public right of way.

(C) Notice shall be accomplished when the Public Works Director or City Engineer has posted a stop-work order at the location of the work and written notice has been mailed, return receipt requested, to the address indicated by the Permittee on the permit.

(D) A stop-work order shall take effect without notice having been mailed if in the opinion of the Public Works Director or City Engineer that with the violation there exists any condition, or act undertaken by the Permittee, which does constitute, may constitute, or causes a condition endangering life or property.

(E) Whenever the Public Works Director or City Engineer finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond, if there is a surety bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed to be reasonably necessary for the completion of the work.

(F) In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety, and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the City for the cost of doing the work, as set forth in the notice, the City may perform the work, at the discretion of the Public Works Director or City Engineer with City forces or contract forces or both, and suit may be commenced by the City Attorney against the contractor and bonding company, and such other persons as may be liable, to recover the entire amount due to the City, including attorney's fees, on account thereof.

(1) In the event that cash has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

(G) Any damage to City-owned facilities or damages resulting from the interruption of services caused by any Person working without a permit shall be the sole responsibility of that Person. The City shall employ whatever resources necessary, City personnel and equipment, contractors, or both, to repair damage and/or re-establish services and the entire cost of those resources shall be borne by the Person.

(H) A stop-work order may be lifted after the Permittee has made all corrective actions to the satisfaction of the City Engineer.

(I) Fines, penalties, or cost of damages must be paid in full before the City will issue a permit to commence the suspended work.

(J) A stop-work order may be lifted conditionally before or during the implementation of corrective actions, in the judgment of the City Engineer, as long as resumption of the work does not continue, not constitute, nor cause a condition endangering life or property.

(K) The City reserves the right to revoke a permit and issue no further permits to any person who has failed to correct any default that has occurred in the performance of any term or conditions of this chapter.

(L) The Permittee may appeal a stop-work order pursuant to the appeal procedure set forth in §152.021(F).

§ 152.092 PENALTIES.

- 1026 (A) Unless otherwise specified in this ordinance, a violation of any provision of this chapter, or
1027 failure to comply with an order of suspension, revocation or stop work, shall be a class B
1028 misdemeanor with corresponding fines and jail penalties.
1029
- 1030 (B) Each day any permit violation exists shall be a separate offense. No criminal conviction shall
1031 excuse the person from otherwise complying with the provisions of this chapter.
1032
- 1033 (C) Any person owning or maintaining facilities or structures in the public way who fails to alter,
1034 modify, or relocate such facilities or structure upon notice by the City shall be guilty of a
1035 class B misdemeanor, with corresponding fines and jail penalties. All costs of alteration,
1036 modification, or relocation shall be borne by the person owning or maintaining the facilities
1037 or structures involved.
1038
- 1039 (D) Violators may also be subject to penalties that may be imposed by the state, county, or
1040 federal government.
1041

CHAPTER 152: STREETS AND PUBLIC ~~PROPERTY~~ RIGHTS OF WAY – Maintenance, Obstructions, Excavations, and Restoration

GENERAL PROVISIONS

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§ 152.001 PURPOSE AND SIDEWALK MAINTENANCE INTENT.

~~—Notwithstanding anything else within this chapter to the contrary, it shall be the duty of the owner and occupant of any real property with frontage upon any public sidewalk to remove all weeds and noxious vegetation from such property to the curb line of the street and to keep the sidewalks along such property free from litter, snow, ice, or obstructions. Snow and ice shall be removed from the sidewalks within 24 hours after a storm.~~

~~(Prior Code, § 8.14.010) (Ord. 03-2020, passed 2-5-2020) Penalty, see § 152.99~~

§ 152.02 EXCAVATION PERMIT AND STREET CUTTING FEES.

~~—Street cutting(A) The intended purposes and objectives of this chapter are:~~

~~(1) To establish reasonable controls and standards to prevent obstructions of public sidewalk and the safe operation and maintenance of same;~~

~~(2) To prevent and regulate obstructions of or encroachments into public rights of way; and~~

(3) To provide for reasonable and uniform limitations, safeguards, and controls on excavation ~~permits must be obtained prior to any work being done~~ within the City and ensure protection and restoration of property.
(Prior Code, § 4.16.040) Penalty, see § 152.99

STREET CUTTING

§ 152.15

§ 152.002 DEFINITIONS.

—For the purpose of this ~~subchapter~~ chapter, the following definitions shall apply unless the context clearly indicates, or requires, a different meaning.

—**APPLICANT.** Any person who ~~makes~~ submits a complete application for a permit.

—**APPURTENANCES.** Miscellaneous concrete surfaces within the public way, such as parking bays and carriage walks; miscellaneous components of storm/sanitary sewer systems (such as catch basins, manholes, valve boxes, etc.).

—**BUSINESS.** Any place in the ~~city~~ City in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

—**BUSINESS DAYS.** A day other than Friday, Saturday, Sunday, or a legal holiday as based on the current designated hours of operation for West Haven City as determined by the City Council.

CITY. The City of West Haven, a municipal corporation of the State of Utah and those responsible for the implementation and enforcement of this chapter including the City Manager.

—**CITY ENGINEER.** The City Engineer, or ~~his or her~~ their authorized representative, and, where appropriate, includes the City Public Works Director, ~~or the City Public Works Inspector,~~ or the authorized representative of any of them.

—**CITY STANDARDS.** The most recent version of West Haven Public Works and Engineering Standards adopted by the City Council and as otherwise codified in this chapter.

EMERGENCY. Any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or property, or which causes interruption of utility services.

—**ENGINEERING REGULATIONS, SPECIFICATIONS, and DESIGN STANDARDS.** ~~The latest version of the engineering regulations, or Standard Specifications and Detail for Municipal Construction, published by the City Engineer.~~

—**ENFORCEMENT OFFICIAL.** The City Engineer, Public Works Director, Building Official, or Code Enforcement Officer.

EXCAVATION. Any activity that requires encroachment upon and will cause physical disturbance to public rights-of-way such as easements, public footpaths, walkways, trails, curb, curb cut, sidewalks, gutters, driveways, driveway approaches, public street, road, highways, alleys, and public drainage ways, including horizontal drilling, horizontal/vertical boring, potholing, and repair/replacement/installation of service connections.

FAILURE. A work site restoration that fails to meet City ~~Engineer~~ standards or specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. FAILURE may be settlement of surfaces, deterioration of materials, or other surface irregularities. ~~Measurement of FAILURE shall be further defined in the engineering regulations~~ or an inability to serve its intended purpose.

—**INFRASTRUCTURE PROVIDER.** A person providing to another, for the purpose of providing telecommunications services to customers, all or part of the necessary system that uses the rights-of-way.

—**MUTCD.** Manual of Uniform Traffic Control Devices, latest edition.

OPERATOR. Any person who provides service over a telecommunications system and directly, or through one or more affiliates, owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

—**PERMITTEE.** Any person who has been issued a permit and thereby has agreed to fulfill the requirements of this ~~subchapter~~chapter.

—**PERSON.** Any natural person; partnership; firm; association; public utility company; an operator, infrastructure provider, reseller, or system lessee; corporation; company; organization; or entity of any kind.

—**PIPE DRIVEWAY.** A driveway approach which uses a pipe or other means to bridge the gutter.

—**PRIVATE DRAIN LINE.** A pipe installed solely for the transmission of water collected or generated on private property, such as drainage, spring, or stormwater, or condensate into the public drainage system.

—**PROPERTY/PROPERTY OWNER.** Person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property. Property or ownership may be public or private.

—**PROVIDER.** An operator, infrastructure provider, reseller, system lessee, or public utility company.

—**PUBLIC UTILITY COMPANY.** Any company subject to the jurisdiction of the State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility products or services for use by the general public.

—**PUBLIC WAY.**

— (1) ~~All public rights of way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways.~~

— (2) ~~It does not, however, include utility easements not within public ways of the city.~~

—**RESELLER.** Any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights-of-way.

—**RESIDENT.** The person or persons currently making their home at a particular dwelling within the corporate limits of the ~~city~~City.

—**RIGHT OF WAY/PUBLIC WAY.** All public rights-of-way and easements, public footpaths, walkways, trails, sidewalks, driveways, driveway approaches, public streets, roads, highways, alleys, drainage ways and municipal easements or easements to which the City has ownership and/or encroachment rights.

STORM DRAIN. A dedicated pipe, conduit, waterway, or ditch installed in a right-of-way or easement for the ~~transmission~~conveyance of storm and drainage water. ~~This term does not include private drain lines.~~

—**SYSTEM LESSEE.** Any person that leases a system or a specific portion of a system to provide services.

—**TELECOMMUNICATIONS SYSTEM or SYSTEM.** All conduits, manholes, poles, antennas, transceivers, amplifiers, and all other electronic devices, equipment, wire, and appurtenances

owned, leased, or used by a provider located in the construction, ownership, operation, use, or maintenance of a telecommunications system.

—~~TRAFFIC BARRICADE MANUAL.~~ The manual on proper CONTROL PLAN. A written plan that may require the use of flaggers, variable message signs, lighting, etc. barricading and traffic-control practices ~~published, or accepted as authoritative~~ to be in place for the duration of the work covered under the permit. The plan shall be in accordance with the most recent version of the MUTCD and governing barricade activity within the city, by the City Engineer standards.

—WHSSD. West Haven Special Service District.

WORK SITE RESTORATION. The restoring of the original ground or paved hard surface area ~~to comply with engineering regulations, and which~~ includes, but ~~is~~ not limited to, repair, cleanup, backfilling, compaction and stabilization, paving, and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit and in conformance with City.

(Prior Code, § 13.06.010) (Ord. 12-98, passed 5-20-1998)

§ 152.16 PERMIT REQUIRED; BASIS FOR ISSUANCE 010 SIDEWALK MAINTENANCE.

—Any person desiring to perform work of any kind in a public way with the city shall make application for a permit. The decision by the city to issue a permit shall be based on and shall include, among other factors determined and found by the city, the following:

—(A) ~~The capacity of the public way to accommodate the facilities or structures proposed to be installed in the public way;~~

—(B) ~~The capacity of the public way to accommodate multiple wires in addition to cables, conduits, pipes, or other facilities or structures of other users of the public way, such as electrical power, telephone, gas, sewer, and water;~~

—(C) ~~The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the public way; and~~

—(D) ~~The public interest in minimizing the cost and disruption of construction from numerous excavations of the public way.~~

(Prior Code, § 13.06.020) (Ord. 12-98, passed 5-20-1998)

§ 152.17 PERMIT APPLICATION REQUIREMENTS.

—(A) ~~Any person desiring to perform work of any kind in a public way within the city shall make application for a permit. Such application for a permit shall be filed with the City Engineer on a form or forms to be furnished by the city. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits; provided, however, contractors may obtain the permit in the contractor's name.~~

(A) —(B) No person Notwithstanding anything else within this chapter to the contrary, it shall be the responsibility of the owner or occupant of any real property with frontage upon any public sidewalk:

(1) To remove all weeds and noxious vegetation from such property to the curb line of the street;

(2) To keep the sidewalks along such property free from litter, snow, ice, or obstructions;

(3) To remove snow and ice from the sidewalks within twenty-four (24) hours after a storm; and

(4) To not throw, put, place, or cause to be thrown, put, or placed into, upon or within any improved right-of-way of any street or public way any snow and ice from said nonresidential lands:

(a) In clearing driveway openings, snow shall be placed on the same side of the street as the driveway opening and off the travel-way so as not to restrict traffic movement or create a hazardous condition;

(b) Snow from the length of private driveways shall not be pushed, or blown onto the City road travel-way but must remain on private property or on the parking strip so as not to impede the travel-way traffic movement;

(c) Snow shall not be pushed across the City road and deposited on the roadside opposite the driveway;

(d) Snow shall not be pushed/blown onto or dumped within the City road travel-way with the expectation that it will be removed or pushed aside by snowplows as roads are cleared; and

(e) In the event that such snow or ice is not removed within the time limits set out in §152.01(A) the Public Works Director may remove or cause to have removed said snow or ice from in front of such lot or lots of land. A notice of violation may also be issued to the property owner. The City's direct and indirect costs shall be charged against such property owners.

(B) It shall be unlawful for any person owning, occupying, or having control of any premise to place, or permit to be placed upon or in the sidewalk, parking area, gutter, or park strip:

(1) Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, water, garbage, or other like substances;

(2) Fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof; or

(3) Any permanent or temporary structure, mechanism, device, vehicle, or other thing of any kind or character except trees planted pursuant to the provisions of applicable ordinance.

§ 152.011 OBSTRUCTION OF PUBLIC SIDEWALKS.

It shall be unlawful to commit in or upon any public sidewalk or driveway approach any act or thing which is an obstruction or interference to safe pedestrian passage; or prevents the free and uninterrupted ingress, egress, and regress, therein, thereon, and thereto.

§ 152.012 OBSTRUCTION OF PUBLIC RIGHTS OF WAYS; RELOCATION OF ENCROACHMENTS.

(A) It is unlawful for any person to install, alter, modify, or relocate facilities or structures within the public or encroaching thereon.

(B) The City Engineer may direct the person owning or maintaining the facilities or structures, at their own cost and expense and upon reasonable written notice by the City, to promptly protect or promptly alter or relocate such facilities or structures or parts thereof.

(C) In the event that such person refuses or neglects to comply with a directive of the City, the City shall have the right to break through, remove, alter, or relocate such part of the

facilities or structures without liability to such person. Such person shall pay to the City all costs incurred by the City in connection with such work performed by the City, including design, engineering, construction, materials, insurance, court costs, and attorney's fees.

(D) Any directive by the City Engineer shall be based upon whether facility or structure:

- (1) Was installed, erected, or is being maintained contrary to law;
- (2) Is found by the City Engineer or Building Official to be structurally unsound or defective;
- (3) Constitutes a nuisance as defined under state statute or City ordinance;
- (4) Was installed under authority that has expired or has been revoked;
- (5) Is not in conformity with public improvements proposed consistent with the General Plan of the City for the area;
- (6) May pose a hindrance to construction to the public way to be repaired or improved; or
- (7) Has caused the grades or lines of the public way to be altered or changed.

(E) Installation of mailboxes meeting the standards of the U.S. Postal Service is permitted without obtaining a Permit from the City.

- (1) Mailboxes shall be placed so as to not interfere with public or private property access ways or drainage facilities;
- (2) Mailboxes must be constructed and maintained so that routine public way maintenance such as snow plowing can occur without causing unnecessary damage to the mailbox;
- (3) The City reserves the right to relocate, temporarily or permanently, any mailbox that is deemed a safety hazard or as needed to complete a City-approved project; and
- (4) The City accepts no liability for mailboxes placed in the public right of way.

§ 152.020 RIGHT OF WAY EXCAVATION PERMIT: WHEN REQUIRED.

(A) Excavations are any activities that will cause any physical disturbance within any public right of way. This includes, but not necessarily limited to, traditional excavation for the repair/replacement/installation of service connections or other infrastructure; street cutting, potholing, horizontal drilling, horizontal/vertical boring, and installation of conduit or facilities that require excavation for construction such as for installation of curb, curb cuts, gutter, sidewalk, driveways, driveway approaches or any other physical improvement undertaken within any public right of way.

(B) It shall be unlawful for any person, other than the City or its authorized employees and agents, to commence excavation in any public way without obtaining a right-of-way excavation permit from the City Engineer.

(C) Excavations under the definition of this chapter that are required or anticipated based on a City approval for a subdivision or site plan shall obtain a right of way excavation permit within existing City streets.

(D) A permit is not required:

- (1) For hand-digging excavations for the installation or repair of sprinkler systems and landscaping within the non-paved areas of the public way that contain no public infrastructure. However, conformance to all City specifications is required; or

(2) For public utility providers providing routine maintenance, accessing their utility within the right of way, including exercising valves, checking manholes, and other work that does not require excavation and having given notice to the Public Works Director.

(E) Any work for which a permit is not required shall still be performed in accordance with City standards and specifications the Manual on Uniform Traffic Control Devices and other laws, regulations, and generally recognized practices of the industry.

(F) The City Engineer shall not issue any permit but only in the case of emergencies:

(1) For excavation of any public streets, roads, highways, or alleys that were constructed, reconstructed, mill/repaved or overlaid, or had surface treatment in the prior three (3) years; and/or

(2) Between November 1 and March 15.

(G) Boring is the preferred method for crossing paved City roads. Excavations shall not be approved unless it can be demonstrated that boring is infeasible or impractical as an alternative.

(H) Longitudinal excavations of paved City roads shall not be approved unless it can be demonstrated that all other alternatives are infeasible or impractical.

§ 152.021 RIGHT OF WAY EXCAVATION PERMIT: APPLICATION.

(A) Only the following persons shall be eligible to apply for ~~or and~~ receive permits to ~~do work~~ within the public ways of the city, ~~save and except the following:~~ a right-of-way excavation permit:

(1) ~~— (1) —~~ Contractors licensed by the ~~state~~ State of Utah as general contractors;

~~— (2) —~~ Public utility companies/providers;

(2) ~~— (3) —~~ Providers;

(3) Property owners installing, replacing, or maintaining less than five hundred (500) square feet or one hundred (100) linear feet of sidewalk, curb, and gutter, or driveway approach, or other work approved by the City Engineer, upon a portion of the public way adjacent to their residence; or

(4) ~~— (4) —~~ Persons offering a service which requires occupation of the public way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, or awnings, and painting or cleaning of buildings or sign boards, or other structures.

~~— (C) —~~ The City Engineer may deny the issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance that, in the opinion of the City Engineer, they will not consistently conform to the engineering regulations, specifications, design standards, or the requirements of this subchapter.

~~— (D) —~~ When necessary, in

(B) Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits; provided, however, contractors may obtain the permit in the property owner's name.

(C) Any person desiring a right-of-way excavation permit must first file an application on forms prepared and furnished by the City Engineer.

(1) Content. A complete application shall include:

(a) Application Form contents:

(i) Information regarding site ownership: contractor(s) that will conduct excavations and contact information for someone that will be available twenty-four (24) hours a day and other relevant information.

(ii) Details of work to be conducted: All applications shall include excavation plans and details, showing the trench(es) detail including the judgment length, width, and depth of the City Engineer, to trench, the exact location and address of the trench(es) and the relationship of the trench(es) to the right of way lines, traffic lanes, intersections, signals, and structures.

(iii) To fully determine the relationship of the work proposed to existing or proposed facilities within the public ways rights of way, or to determine whether the work proposed complies with the engineering regulations, construction specifications, and design standards, the City Engineer may require the filing of engineering plans, specifications, and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.

~~—(E) It shall be unlawful for any person to commence work upon any public way until the City Engineer has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this subchapter.~~

~~(iv) —(F) The disapproval or denial of an application Traffic Control Plan/Measures – A traffic control plan, if required by the City Engineer may be appealed by the applicant by filing a written notice of appeal.~~

(v) Copy of City Stormwater Construction Activity permit, if applicable and in compliance with Chapter 155: Stormwater Management.

(vi) For potholing, locations shall be indicated on a map and Permittee must also provide machinery to be used, size, and depth of potholes and purpose(s).

(b) Bonds and Insurance: All applications shall include the requisite, bonds and insurance certificates as more particularly set forth in this chapter.

(c) Remittance of fees;

(d) The City Engineer may require a mandatory on-site preconstruction meeting no later than twenty-four (24) hours prior to work starting or earlier if a traffic control plan is required.

(2) Directional Bore, Additional Requirements. Any person wanting to conduct directional bore work within ten days of the action the City shall be required to provide, in addition to the above, the following information:

(a) Plans. Engineered, detailed plans showing:

(i) Locations of all excavations (including bore pits, vaults, hand-hold boxes, pedestals, etc.).

(ii) Bore path (dimensioned off of back of curb or sidewalk).

(iii) All utilities that are crossed or running in close proximity to the proposed bore.

(iv) These plans must either be produced by a company that currently has a franchise agreement with the City or stamped by a professional engineer licensed in the State of Utah.

(b) The Applicant shall record, maintain, and provide copies of all bore logs to the City.

- (c) All sanitary sewer laterals that are crossed by a directional bore shall be video inspected for damage after the bore and provided to the WHSSD Superintendent.
- (i) A video inspection may be required for other reasons at the discretion of the City Engineer. The Mayor (or his or her designee) shall hear such appeal if written request therefor be timely filed or WHSSD Superintendent to verify that a City utility lateral or main has not been damaged in the process of the bore.
- (d) Utility and Infrastructure Repairs. The Permittee shall be responsible for damage or destruction to property and/or utilities during the course of construction, including pipelines, culverts, conduits, cabling, asphalt, and concrete pavement. Such damage must be repaired as soon as practicable, and render his or her decision and restored to a condition equal to or better than it was prior to initiating boring.
- (e) Landscape Restoration and Repairs. In addition to any patching, pavement, or other restoration:
- (i) Landscaping at bore-pit locations or any other locations damaged or disturbed by contractor MUST be restored to a condition equal to or better than it was previous to the bore job; and
- (ii) Any components of an irrigation or sprinkler system (pipe, control wire) that are damaged as a result of permitted directional bore work must be repaired immediately upon discovery. Testing of sprinkler (or irrigation) systems crossed by the bore is a requirement to finalize the permit and close out work.
- (f) Mandatory Preconstruction Meeting. A mandatory on-site Preconstruction Meeting is required for all directional boring in the City at least forty-eight (48) hours (two business days) prior to work starting.

(B) The City Engineer may require written notice to be provided to any resident or business within two weeks following five hundred (500) feet of the center of trench. Additional public notice of such appeal may be required if conditions warrant.

~~—(G)—~~

(C) In approving or disapproving work within any public way, or permits therefor, in the inspection of such work; in reviewing plans, sketches, or specifications; and generally in the exercise of the authority conferred upon him or her them by this subchapter chapter, the City Engineer shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of permittees Permittees and applicants or other persons which have no relationship to the use, preservation, or protection of the public way.

~~—(H) It shall be unlawful for a city, county, state, federal, or other government employee to perform routine maintenance work, not involving excavations, without first having obtained a permit therefor.~~

~~—(I) A permit is not required from the City Engineer for hand-digging excavations for the installation or repair of sprinkler systems and landscaping within the non-paved areas of the public way. However, conformance to all city specifications is required.~~

~~(Prior Code, § 13.06.030) (Ord. 12-98, passed 5-20-1998) Penalty, see § 152.99~~

§ 152.18 EMERGENCY WORK.

~~—(A) Any person maintaining pipes, lines, or facilities in the public way may proceed with work upon existing facilities without a permit when emergency circumstances demand the work~~

to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.

—(B) In the event that emergency work is commenced on or within any public way of the city during regular business hours, the City Engineer shall be notified within one-half hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall ensure that work is accomplished according to city engineering regulations, the *Manual on Uniform Traffic Control Devices*, and other applicable laws, regulations, or generally recognized practices in the industry.

~~(A) (C) Any person commencing emergency work in the public way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which city offices are open for business after such work is commenced. A permit for such emergency work may be issued, which shall be retroactive to the date when the work was begun, at the discretion of the City Engineer.~~

(Prior Code, § 13.06.040) (Ord. 12-98, passed 5-20-1998)

§ 152.19 PAVEMENT CUTTING AND PATCHING POLICY.

—(A) *Forward.*

—(1) The primary objective of this procedure is to establish a system whereby the city corporation will be able to coordinate closely with contractors and utility companies in the cutting of city pavements, accomplishing below-grade improvements, and/or repairs to various utilities, and patching the pavements, all in a manner which will provide the greatest continuity between entities involved, with the least amount of disruption of service levels to neighboring citizens and users of the streets and/or utilities.

—(2) The secondary objective of this procedure is to establish a system whereby the majority of below-grade work will be accomplished to pavements in an older condition prior to those pavements being overlaid. It is the intent of this policy to minimize the cutting of newer pavement through better coordination with all parties involved.

—(B) *Planning.*

—(1) The city corporation will provide utility companies with pavement upgrade schedules as far in advance as possible. It is anticipated that notice will be given 12 months in advance of pavement upgrades scheduled. However, if the city corporation determines that pavement conditions on unscheduled roads warrant upgrading, they may change the schedule as deemed appropriate.

—(2) No street cut fee will be assessed to any party making repairs and/or improvements under roads scheduled for pavement upgrade; provided this work is accomplished prior to the pavement work.

The city corporation will provide to the utility companies, and to anyone who requests it, a pavement capital improvement plan, which will be updated each year.

—(3) Utility companies will be requested to submit their capital improvement plans to the city corporation. The city corporation may then elect to defer maintenance to these pavements until the utility work is completed.

—(C) *Permits and fees.*

—(1) Street cut permits shall be obtained prior to cutting any pavements on city streets, excavating, replacing sidewalk or driveway approaches, and/or planting trees in the public rights-of-way. The city corporation is desirous of receiving 24 hours' notice of intent to cut a pavement. Street cut permits may be obtained at the city office. An additional fee may be charged in

addition to the normal street cutting charges for failure to obtain a permit prior to excavating in the public rights of way. If emergency work requires a pavement cut after business hours, permission may be granted by the on-call employee, City Engineer, or Mayor by contacting these personnel at home.

— (2) Pavement cutting fees shall be assessed based upon the impact the cut has on the longevity and condition of the pavement. Factors considered in this fee include overlay, chip and seal, and reconstruction costs. The fee shall be assessed on a square footage basis.

— (3) All pavement cuts 100 square feet or smaller shall be patched by the city corporation. The city may patch larger cuts at its option. The intent of this provision is to ensure rapid maintenance and patching on city streets. The patching fee shall be assessed on a square footage basis. The city may require the permittee to hire an approved contractor at his or her expense to perform patching on any size of cut if deemed necessary by the city corporation. Cuts over 100 square feet will normally be patched by the permittee's approved contractor at his or her expense.

— (4) Winter patching is a special condition often requiring follow-up patching in the spring when weather warms; therefore, a special winter patching fee is required. The winter patching season is the time period when the batch plants are closed and cold mix is placed in cuts. The winter patching fee shall be assessed on a square footage basis. The permittees who patch their own cuts during cold mix season will be required to replace this patch in the spring when hot mix becomes available. The city corporation will make this determination in the spring when weather warms and the condition of the winter patch can be evaluated effectively.

— (5) No patching shall be commenced until successfully passing compaction testing. A compaction test fee will be charged for each test required on cuts of 100 square feet or less. On cuts 100 square feet or more, the permittee will be responsible for compaction tests and related costs.

— (6) All fees related to cutting and excavating in the public rights of way may be adjusted on an annual basis by the City Council.

— (a) The Mayor may make adjustments to a pavement cut or patching fee as deemed reasonable, but fees may only be waived upon approval of the City Council. Pavement cutting fees shall not normally be charged on city-funded capital improvement projects.

— (b) Information on specific costs of pavement cut fees or patching fees may be obtained by request to the city corporation.

— (7) All construction materials and methods used within the public rights of way shall conform to the city development standards. No debris or asphalt is to be mixed with backfill. (Prior Code, § 13.06.050) (Ord. 19-98, passed 7-15-1998) Penalty, see § 152.99

§ 152.20 PERMIT AND STREET CUT FEES.

— (A) The city shall charge, and the permittee shall pay, upon

(D) The decision by the City Engineer to issue a right of way excavation permit shall include, among other factors determined by the City, the following:

- (1) The capacity of the public right of way to accommodate the facilities or structures proposed to be installed in the public right of way;
- (2) The capacity of the public right of way to accommodate multiple wire in addition to cables, conduits, pipes, or other facilities or structures of other users of the public right of way, such as electrical power, telephone, gas, sewer, and water;
- (3) The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the public right of way; and/or

(4) The public interest in minimizing the cost and disruption of construction from numerous excavations of the public right of way.

(E) The City Engineer may deny the issuance of the permit fees for the review of permits to contractors, utility companies, or other permit applicants who have shown by past performance that, in the opinion of the City Engineer, they will not consistently conform to the engineering regulations, specifications, design standards, or the requirements of this chapter.

(F) Appeals: The disapproval or denial of an application and by the City Engineer may be appealed by the applicant to the City Manager in the following way:

(1) A written notice of appeal must be filed with the City Manager within five (5) business days of the denial by the City Engineer.

(2) The City Manager shall set a date for an informal hearing to consider the appeal. The City Manager shall hold the informal hearing and shall allow the appellant to present evidence regarding whether an error occurred in the interpretation or implementation of this chapter.

(3) The City Manager shall render a written decision on the appeal within five (5) business days of the informal hearing with the appellant.

(4) The City Manager shall uphold the decision of the City Engineer unless the City Manager finds that there has been an error in the interpretation or implementation of this chapter.

(5) Any decision of the City Manager issued hereunder may be appealed to the City Council by filing a written notice of appeal within ten business (10) days from the date of the final decision issued by the City Manager.

(6) The City Council shall hear such appeal as soon as practicable, if the written request therefore is timely filed, and render its written decision within three (3) weeks following notice of such appeal.

(7) The City Council shall uphold the decision of the City Manager unless the City Council finds that there has been an error in the interpretation or implementation of this chapter.

(8) A finding in favor of an appellant does not hold the City responsible for direct or indirect costs incurred by the Permittee during the time the stop-work order was imposed.

§ 152.022 RIGHT OF WAY EXCAVATION PERMIT: OTHER CONDITIONS AND REQUIREMENTS.

(A) Application and Permit Fees.

(1) The City shall charge fees for the cost to review the application, necessary site inspection of costs associated(s), and general oversight of restoration with the work performed under the permit as outlined in the consolidated fee schedule. Such costs could-. Fees shall include costs for reviewing the project and issuing the permit, inspections of the project: permit/application fee; excavation: shoulder, gravel, dirt road, excavation hard surface; road cut fee; soft surface boring fee; pothole fee; new pavement cut fee/emergency permit; and inspection fees.

(2) Fees are in accordance with the most recent Consolidated Fee Schedule adopted by the City Council.

(a) The City Engineer may require additional charges to be assessed to cover the reasonable cost and expenses of any required engineering review, inspection, deterioration of the public way or diminution of the useful life of the public way, and other costs to the city associated with the work to be done under the permit. All costs shall be assessed in a nondiscriminatory manner based on the scope, complexity, and degree of impact to the public right of way.

—(B)—(3) The City Engineer may waive permit fees or penalties, or a portion thereof, provided for in this ~~subchapter~~chapter when ~~he or she determines~~they determine that such permit fee or penalty:

(a) —(1)—Pertains to the construction or rehabilitation of housing for persons whose income is below the median income level for the ~~city~~City; or

(b) —(2)—Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the ~~city's~~City's strategic plan, ~~master plans~~General Plan, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

—(C)—Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by the city to each permittee, in addition to the permit fee.

—(D)—A street cutting and excavation permit must be obtained prior to any work being done.

(B) Permit: Duration, Extensions.

(1)—Excavation fee for shoulder, gravel, or dirt road: \$0.05 per square foot with minimum charge of \$30.

—(2)—Excavation fee for hard surface:

Hard Surface Fee Schedule	Asphalt Shouldering
Compaction test: application must provide written test results from authorized company "before patching," or if city doesn't charge per test	\$40
Failure to obtain permit before beginning work	\$50
Inspector charge on large non-city projects	\$25 per hour
Permit charge	\$15
Summer patching charge	\$4.50 sq. ft. with minimum of \$60

(Prior Code, § 13.06.060) (Ord. 19-98, passed 7-15-1998) Penalty, see § 152.99
§ 152.21 PERMIT, CONTENTS, DURATION, EXTENSIONS.

—(A)— Each permit application shall ~~state~~be effective as of the starting date and estimated completion date. Work indicated in the application. Permits shall ~~be completed~~within~~expire~~ ten (10) business days from the starting date or as otherwise directed by the City Engineer. ~~Such determination shall be based upon factors reasonably related to the work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:~~

- (1) The scope of work to be performed under the permit;
 - (2) Maintaining the safe and effective flow of pedestrian and vehicular traffic on the public way affected by the work;
 - (3) Protecting the existing improvements to the public way impacted by the work;
 - (4) The season of the year during which the work is to be performed as well as the current weather and its impact on public safety and the use of the public way by the public; and
 - (5) Use of the public way for extraordinary events anticipated by the city. The City Engineer shall be notified by the permittee of commencement of the work within 24 hours prior to commencing work. The permit shall be valid for the time period specified in the permit.
 - (B) If the work is not completed during such period, then prior to the expiration of the permit, the permittee may apply to the City Engineer for an additional permit or an extension, which may be granted by the City Engineer for good cause shown.
 - (C) The length of the extension requested by the permittee shall be subject to the approval of the City Engineer. No extension shall be made that allows work to be completed in the winter period without payment of winter fees.
- (Prior Code, § 13.06.070) (Ord. 12-98, passed 5-20-1998)

§ 152.22 NO TRANSFER OR ASSIGNMENT OF PERMIT.

- (A) Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit.
 - (B) Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance, and other requirements of this subchapter and under said permit.
- (Prior Code, § 13.06.080) (Ord. 12-98, passed 5-20-1998) Penalty, see § 152.99

§ 152.23 COMPLIANCE WITH SPECIFICATIONS, STANDARDS, TRAFFIC CONTROL REGULATIONS; SITE PERMITTEE IDENTIFICATION.

- (A) The work performed in the public way shall conform to the requirements of the engineering regulations, design standards, construction specifications, and traffic control regulations of the city, copies of which shall be available from the City Engineer, kept on file in the office of the City Recorder, and be open to public inspection during office hours.
- (B) Where a job site is left unattended before completion of the work, signage with minimum two-inch high letters shall be attached to a barricade or otherwise posted at the site, indicating the permittee's name, or company name, telephone number, and after hours telephone number.
- (C) — (2) If once commenced, the Permittee expects work to continue in excess of ten (10) business days, the Permittee must file a permit renewal request with the City Engineer.
- (3) Prior to commencing, if work is expected to exceed ten (10) business days, the City Engineer may require the Permittee to submit a detailed construction schedule prior to approval. The schedule will address means and methods to minimize traffic disruption, maintain safe vehicular and pedestrian travel, and complete the construction as soon as reasonably possible.

(C) General Conditions.

- (1) Hours of operation for permitted work shall not begin before 7:00 am and shall end before 7:00 pm, Monday through Friday. The City Engineer may modify hours of operation or authorize night or weekend work if special conditions warrant.

- 628 (2) All excavations shall be conducted in a manner resulting in a minimum amount of
 629 interference with or interruption of street or pedestrian traffic.
- 630 (3) Inconvenience to residents and businesses fronting on the public right of way shall be
 631 minimized.
- 632 (4) Prior to any work in front of driveways, the Permittee shall notify the property
 633 owner in writing at least twenty-four (24) hours in advance.
- 634 (a) Inconvenience caused by construction across driveways and sidewalks shall be kept
 635 to a minimum by restoring the serviceability within twenty-four (24) hours, or as
 636 otherwise approved by the City.
- 637 (b) If it is necessary to leave open excavation for a longer period of time, the Contractor
 638 shall provide structurally adequate steel plates to bridge the excavation.
- 639 (5) All trench and pavement cuts shall be made by sawcut or by grinding. Sawcuts or
 640 grinding shall be a minimum of one foot (1') outside the trench width. The top two
 641 inches (2") of asphalt shall be ground down to a minimum distance of one foot (1')
 642 beyond the actual outside edges of the trench and shall be replaced with two inches (2")
 643 of Class B asphalt.
- 644 (6) The maximum amount of open trench permitted in any one location shall be two
 645 hundred (200) feet, or the length necessary to accommodate the amount of pipe
 646 installed in a single day, unless otherwise approved by the City.
- 647 (7) Construction of manholes or other appurtenances requiring added construction and
 648 cure time may be left unpaved for additional time provided they are properly
 649 barricaded. The City may adjust these limits if conditions warrant.
- 650 (8) A clear pedestrian path of a width of at least ten (10) feet must be maintained
 651 throughout the duration of the permit. Safe pedestrian routes must be established and
 652 maintained and may require the use of signage, barriers, lighting, public notification,
 653 etc., as directed by the City Engineer.
- 654 (9) Suitable, adequate, and sufficient barricades and/or other structures will be available
 655 and used where necessary to prevent accidents involving property or persons.
- 656 (10) Barricades must be in place until all of the permittee's equipment is removed
 657 from the site and the excavation has been backfilled and proper temporary gravel
 658 surface is in place, except where backfilling and resurfacing is to be done by the city; in
 659 which case, the barricades, together with any necessary lights, flares, or torches, must
 660 remain in place until the backfill work is actually commenced by the city. restoration is in
 661 place.
- 662 (11) From sunset to sunrise, all barricades and excavations must be clearly outlined by
 663 adequate signal lights, torches, and the like. The Police Department and Fire Department
 664 shall be notified at least 24 hours in advance of any planned excavation requiring street
 665 closure or traffic detour or other means to maintain visibility.
- 666 (Prior Code, § 13.06.090) (Ord. 12-98, passed 5-20-1998) Penalty, see § 152.99
- 667
- 668 § 152.24(12) All open trenches within the public way shall be barricaded and covered in
 669 conformance with the MUTCD.
- 670 (13) Where a job site is left unattended before completion of the work, signage with
 671 minimum two-inch-high letters shall be attached to a barricade or otherwise posted at

the site, indicating the Permittee's name or company name, telephone number, and after-hours telephone number.

(14) If a separate traffic control plan was required by the City Engineer and the Public Works Director, the Weber County Sheriff Department and Weber County Fire Department shall be notified no less than seventy-two (72) hours in advance of any planned excavation requiring street full or partial closure and/or traffic detour.

(15) Prior to the estimated completion date in the permit, the City may determine that weather or other conditions are not conducive to the timely completion of restoration of the public way and may suspend the permit at the City's discretion until such conditions improve.

(16) If during the duration of the permit, the Permittee wants to temporarily suspend work due to weather or other conditions, the Public Works Director shall be notified, and the expiration of the permit extended accordingly.

(17) Any directive or demand by the City shall not be construed to express or imply the City's financial participation in said directive or demand. Unless described in a signed agreement with the City, clearly stating the City's intent to participate financially in the work, all costs associated with the permit and work are the sole responsibility of the Permittee.

§ 152.023 NO TRANSFER OR ASSIGNMENT OF PERMIT.

(A) Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit or work outside of approved scope.

(B) Nothing herein contained shall prevent a Permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance, and other requirements of this chapter and under said permit.

§ 152.024 OTHER HIGHWAY PERMITS.

(A) ~~Holders of permits for work~~Excavation that will be performed on highways ~~not~~ owned or under the jurisdiction of ~~other government~~the City, but under the jurisdiction of other governmental entities, ~~but~~ located within the ~~city~~City limits, shall, nonetheless, be required to obtain permits from the ~~city~~City under the provisions of this ~~subchapter, whether the work extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Any city~~chapter.

(B) Approval of any City right of way excavation permit shall not be construed to permit or allow work on a county road or a state highway within the ~~city~~City without an applicable county or state permit. A copy of an approved permit issued by the requisite jurisdiction must be submitted with the City application.

(C) Any person exempt from obtaining a City permit that intends on excavating rights of way under jurisdiction other than the City shall notify the City Engineer prior to the

commencement of such work. The City shall be invited to any preconstruction meetings required by the permitting authority.

§ 152.025 EMERGENCY WORK.

(A) Any public utility company or provider that owns, operates, or leases pipes, lines, or facilities in the public way may proceed with excavation for existing facilities without a permit when emergency circumstances demand the work to be done immediately, and a permit could not reasonably and practicably have been obtained beforehand, and shall make applications no later than the next business day.

(B) Excavation required by a resident or business owner may proceed without a permit when emergency circumstances demand the work to be done immediately and provided a permit could not reasonably and practicably have been obtained beforehand and will make application no later than the next business day.

(C) In the event that emergency work is commenced on or within any public way of the City during regular business hours, the Public Works Director shall be specifically notified within one hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic and shall ensure that work is accomplished according to City Engineering regulations, the Manual on Uniform Traffic-Control Devices, and other applicable laws, regulations, or generally recognized practices in the industry.

(D) Any person, public utility company or provider commencing emergency work in the public way during other than business hours without a permit shall give notice to the Public Works Director specifically during the first hour of the first regular business day on which City offices are open for business after such work is commenced and apply for a permit. A permit for such emergency work may be issued, which shall be retroactive to the date when the work was begun, at the discretion of the City Engineer.

(Prior Code, § 13.06.100) (Ord. 12-98, passed 5-20-1998; Ord. 17-2002, passed 11-20-2002)

§ 152.25 RELOCATION OF STRUCTURES IN PUBLIC WAYS.

~~—(A) The City Engineer may direct any person owning or maintaining facilities or structures in the public way to alter, modify, or relocate such facilities or structures as the City Engineer may require. Sewers, pipes, drains, tunnels, conduits, pipe driveways, vaults, trash receptacles, and overhead and underground gas, electric, telephone, telecommunications, and communication facilities shall specifically be subject to such directives. The person owning or maintaining the facilities or structures shall, at his or her own cost and expense and upon reasonable written notice by the city, promptly protect, or promptly alter or relocate such facilities or structures, or parts thereof, as directed by the city. In the event that such person refuses or neglects to conform to the directive of the city, the city shall have the right to break through, remove, alter, or relocate such part of the facilities or structures without liability to such person. Such person shall pay to the city all costs incurred by the city in connection with such work performed by the city, including also design, engineering, construction, materials, insurance, court costs, and attorney's fees.~~

~~—(B) Any directive by the City Engineer shall be based upon of the following:~~

—(1) The facility or structure was installed, erected, or is being maintained contrary to law, or determined by the City Engineer to be structurally unsound or defective;

—(2) The facility or structure constitutes a nuisance as defined under state statute or city ordinance (this section shall not, however, be deemed to diminish the vehicle impound authority of the Police Department);

—(3) The authority under which the facility or structure was installed has expired or has been revoked;

—(4) The facility or structure is not in conformity with public improvements proposed consistent with the general plan of the city for the area;

—(5) The public way is about to be repaired or improved, and such facilities or structures may pose a hindrance to construction; or

—(6) The grades or lines of the public way are to be altered or changed.

(Prior Code, § 13.06.110) (Ord. 12-98, passed 5-20-1998) Penalty, see § 152.99

§ 152.26 IMPACT OF EXCAVATIONS ON EXISTING IMPROVEMENTS.

—(A) ~~If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with city standards for such.~~

—(B) Where excavations are made in paved areas, the

Any emergency work conducted on a road, street, highway, or alley that has been constructed, reconstructed, mill/repaved, overlaid or had any surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

—(C) (1) At any time a permittee disturbs the yard, residence, or the real or personal property of a private property owner or the city, such permittee shall ensure that such property is returned, replaced, and/or restored to a condition that is comparable to the condition that existed treatment(s) applied in the prior three (3) years are subject to the commencement of the work.

—(2) The costs associated with the disturbance additional patching and the return, replacement, and/or restoration shall be borne by the permittee. Further, a permittee shall reimburse a property owner or the city for any actual damage caused by the permittee, his or her subcontractor, or his or her independent contractor, in connection with the disturbance of such property. However, nothing in this section shall require the permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the permittee remove, replace, or relocate improvements associated with the service provided by the permittee to the property owner, and when the permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the permittee on which the permittee relied to his or her detriment.

—(D) Examples of types of acts specifically included in this section are the following:

—(1) Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fences;

—(2) To install, trench, repair, replace, remove, or locate equipment, cables, or other appurtenances of the permittee;

—(3) Installation or removal of equipment or other appurtenances of the permittee's system within a private property owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the permittee;

—(4) Temporarily relocating or moving a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, air conditioning or heating unit, or the like) in order to perform some sort of construction, maintenance, or repair by the permittee; or

—(5) Permanently removing a permittee's equipment or other appurtenances due to the revocation, termination, or non-renewal of the franchise (if applicable).

~~—(E) Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the City Engineer prior to the blockage of the channel.~~

~~—(F) The requirements imposed upon the permittee extend to any subcontractor or independent contractor that the permittee might employ to perform the tasks pursuant to the permit.~~

~~—(G) The requirements of this section shall not apply to the removal by a permittee of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the city granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the County Recorder.~~

~~(Prior Code, § 13.06.120) (Ord. 12-98, passed 5-20-1998)~~

~~§ 152.27 RESTORATION OF PUBLIC PROPERTY.~~

~~—(A) The permittee shall, at his or her own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations, design standards, and specifications promulgated by the city and shall be accomplished within the time limits set forth in the permit, unless the city grants additional time in writing.~~

~~(E) —(B) With the concurrence of the city's Public Works Director, the permittee doing the actual excavation work may request that the city restore the surface to its original condition. The fee for such resurfacing shall be determined by the City Engineer in accordance with its reasonable costs for such work and shall be charged to the person, firm, or corporation making the excavation. Payment for said work shall be received by the city prior to the release of the bond.~~

~~(Prior Code, § 13.06.130) (Ord. 12-98, passed 5-20-1998)~~

~~§ 152.28~~ **INSURANCE REQUIREMENTS.**

~~—(A) Before a permit is issued, the applicant shall furnish to the city evidence that such applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed or with the followingsuch alternative limits and provisions: as may be approved by the City Manager, after consulting with the City Attorney:~~

~~—(1) A minimum of \$one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than \$one million dollars (\$1,000,000) in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two times the required occurrence limit. The coverage shall be in the nature of broad-form commercial general liability coverage. The City Attorney may increase or decrease minimum insurance limits, depending on the potential liability of any project (2) times the required occurrence limit.~~

~~—(2) The coverage shall be in the nature of broad-form commercial general liability coverage.~~

~~(3) The City Attorney may require increased or decreased minimum insurance limits, depending on the potential liability of any project.~~

- (4) All policies shall include the cityCity, its employees, officers, officials, agents, volunteers, and assigns as insureds. Any reference to the cityCity shall include the cityCity, its employees, officers, officials, agents, volunteers, and assigns.
- ~~(3)~~ ~~(5)~~ The coverage shall be primary insurance ~~as respects~~ in respect to the cityCity, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the cityCity, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the ~~permittee's~~ Permittee's insurance and shall not contribute to or with it.
- ~~(4)~~ ~~(6)~~ The Permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- (7) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the cityCity, its employees, officers, officials, agents, volunteers, and assigns.
- ~~(5)~~ ~~(8)~~ Coverage shall state that the ~~permittee's~~ Permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- ~~(6)~~ ~~(9)~~ Underwriters shall have no right of recovery or subrogation against the cityCity, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
- ~~(7)~~ ~~(10)~~ The insurance companies issuing the policy or policies shall have no recourse against the cityCity for payment of any premiums due or for any assessments under any form of any policy.
- ~~(8)~~ ~~(11)~~ Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, sent to the cityCity.
- ~~(9)~~ ~~(12)~~ Each policy shall be endorsed to indemnify, save harmless, and defend the cityCity and its officers and employees against any claim or loss, damage, or expense sustained on account of damages to persons or property occurring by reason of permit work done by the ~~permittee~~ Permittee, or ~~his or her~~ their subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.
- ~~(10)~~ ~~(13)~~ Each policy shall be endorsed to indemnify, hold harmless, and defend the cityCity and its officers and employees against any claim or loss, damage, or expense sustained by any person occurring by reason of doing any work pursuant to the permit, including, but not limited to, falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and the right-of-way is opened for public use.
- ~~(B)~~ ~~(14)~~ Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of "T" or higher: (with a rating of seven (7) or higher).
- ~~(C)~~ ~~(15)~~ The ~~permittee~~ Permittee shall furnish the cityCity with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The cityCity expressly reserves the right to

require complete, certified copies of all required insurance policies at any time.

~~Consequently~~However, the ~~permittee~~Permittee shall ~~be prepared to~~ provide such copies prior to the issuance of the permit.

~~—(D)—~~

(B) If any of the required policies are, or at any time become, unsatisfactory to the ~~city~~City Manager or City Attorney as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the ~~city~~City Manager or City Attorney, the ~~permittee~~Permittee shall promptly obtain a new policy, submit the same to the ~~city~~City Manager for approval, and thereafter submit verification of coverage as required by the ~~city~~City Manager or City Attorney. Upon failure to furnish, deliver, and maintain such insurance as provided herein, the ~~city~~City Manager or City Attorney may declare the permit to be in default and pursue any and all remedies the ~~city~~City may have at law or in equity, including those actions outlined in this ~~subchapter~~chapter.

~~—(E) The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.~~

~~—(F)—~~

(C) Any deductibles or self-insured retentions shall be declared to and approved by the ~~city~~City Manager or City Attorney. At the option of the ~~city~~City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects ~~to~~ the ~~city~~City, its employees, officers, officials, agents, volunteers, or assigns, or the ~~permittee~~Permittee shall procure a bond, in a form acceptable to the ~~city~~City Manager or City Attorney, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

~~—(G)—~~

(D) A property owner performing work adjacent to ~~his or her~~their residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.

~~—(H)—~~

(E) A public utility company provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances, if such company shall submit satisfactory evidence in advance that:

- ~~—(1)—~~ It is insured in the amounts set forth in this ~~subchapter~~chapter or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit;
- ~~—(2)—~~ Said coverage provides to the ~~city~~City the same scope of coverage that would otherwise be provided by a separate policy as required by this ~~subchapter~~chapter; or
- ~~—(3)—~~ The work to be performed under the permit issued to the applicant is to be performed by the ~~city~~City, in which case, the insurance requirement shall be negotiated between the ~~city~~City Manager and the applicant by separate agreement.

~~(Prior Code, § 13.06.140) (Ord. 12-98, passed 5-20-1998)~~

(F) This chapter shall neither be construed as imposing upon the City, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the City, its officers, officials, employees, agents, volunteers or

assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

§ 152.29 ~~BOND~~ 027 SECURITY: WHEN REQUIRED, CONDITIONS, WARRANTY.

(A) — (A) Except as noted in this subchapterchapter, each applicant, before being issued a permit, shall provide the cityCity Manager with an acceptable corporate surety bondsecurity (hereinafter the “bond”) in the form of either a cash bond or secure letter of credit or other financial protection acceptable to the City Attorney (hereinafter the “bond”) in an amount determined by the City Engineer to be sufficient to.

(B) Public utilities franchised or authorized by separate agreement with the City shall not be required to file a security if such requirement is expressly waived in the franchise documents or other acceptable right of way use agreement or license, or if such bond(s) has been provided with the franchise grant or other acceptable right of way use agreement or license.

(C) All other contractors shall, at a minimum, provide security in the sum of two thousand dollars (\$2,000.00). The city shall hold this deposit or guarantee faithful performance of the work authorized by a permit granted pursuant to this subchapter. The for a period of twenty-four (24) months as surety against any defects or workmanship.

(D) The amount of the bond required may be increased or decreased at the discretion of the City Engineer whenever it appears that based on the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this subchapter. The form of the bond and the entity issuing the bond shall be subject to the approval of the City Attorney. limits and types of disturbances.

— (B) Public utilities franchised by the city shall not be required to file a corporate surety bond if such requirement is expressly waived in the franchise documents.

— (C) —

(E) The bond required by this section shall be conditioned as follows:

(1) — (1) The permitteePermittee shall fully comply with the requirements of the cityCity ordinances and regulations, specifications, and standards promulgated by the cityCity relative to work in the public way, and respond to the cityCity in damages for failure to conform therewith;

(2) — (2) After work is commenced, the permitteePermittee shall proceed with diligence and expedition, and shall promptly complete such work and restore the public way to construction specifications so as not to obstruct the public place or travel thereon more than is reasonably necessary;

(3) — (3) The permitteeUpon acceptance of restoration by the City Engineer, the City shall guarantee the materials and workmanshipnotify the Permittee of the start date of the warranty assurance for a period of two yearsone (1) year from completion of such work, with reasonable wear and tear excepted; and

(4) Upon completion of the warranty period, the Permittee shall notify the City Engineer in writing that the work is ready for final inspection. If the work is found to be in

satisfactory condition, the City Manager shall authorize release of the bond or refund the cash escrow deposit within sixty (60) days of the written notification.

(F) The security may be forfeited in whole or in part as follows:

- (1) The work is deemed a failure and there is no response within five (5) business days from the date the Permittee is provided written notice to cure; or
- (2) An emergency or unsafe condition arises as a result of the failed work in that notification to the Permittee would further jeopardize public safety, in which case the City may use all or part of the surety or deposit to correct the unsatisfactory work; or
- (3) The Permittee fails to request a final inspection and ninety (90) days lapse after the warranty period, in which case the City shall consider the permit abandoned and the surety or deposit forfeited to the City in full.

(G) The warranty period does not exempt the Permittee from the responsibility to respond and cure any defects in restoration at any time after being notified by the City.

(H) If the Permittee fails to respond to or cure any defects in restoration, the City may undertake or take cause to undertake necessary work to ensure public safety and all direct and indirect costs incurred shall be recovered from the warranty surety.

§ 152.028 IMPACT OF EXCAVATIONS ON EXISTING IMPROVEMENTS.

(A) If a proposed excavation within the public right of way is within the vicinity of critical infrastructure, the City may, at its sole discretion, deny the permit, or the City may charge the Permittee for a City inspector to be continuously on site during any permit work done in this vicinity.

(B) If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users and consistent with City standards for such.

(C) Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface or plated at the discretion of the Public Works Director specifically until such time as the permanent repairs are completed.

(D) Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. — (4) — When it is necessary to block or otherwise interrupt the flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the Director of Public Works specifically prior to the blockage of the channel.

(E) The requirements imposed upon the Permittee extend to any subcontractor or independent contractor that the Permittee might employ to perform the tasks pursuant to the permit.

§ 152.029 IMPACT OF EXCAVATIONS ON EXISTING PRIVATE PROPERTY IMPROVEMENTS.

(A) The City reserves the right to utilize the rights of way as the City deems appropriate. Where excavations are made which impact private property/owner improvements that have encroached upon the Public Way, the Permittee shall be responsible, as directed by the City, to ensure that such improvements are returned, replaced, and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.

(1) The determination of what is considered a "comparable condition" will be at the sole discretion of the City.

(2) The City shall not be responsible for private improvements constructed in or encroaching on the Public Way.

(B) At any time a Permittee disturbs the yard, residence, or the real or personal property of a private property owner or the City, such Permittee shall ensure that such property is returned, replaced, and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.

(C) The costs associated with the disturbance and the return, replacement, and/or restoration shall be borne by the Permittee. Further, a Permittee shall reimburse the property owner or the City for any actual damage caused by the Permittee, their subcontractor, or their independent contractor, in connection with the disturbance of such property.

(D) Nothing in this section shall require the Permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the Permittee remove, replace, or relocate improvements associated with the service provided by the Permittee to the property owner, and when the Permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the Permittee on which the Permittee relied to their detriment.

(E) Examples of acts specifically included in this section, but not necessarily limited to, are the following:

(1) Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fences;

(2) Installing, trenching, repairing, replacing, removal, or locating equipment, cables, or other appurtenances of the Permittee;

(3) Installation or removal of equipment or other appurtenances of the Permittee's system within a private property owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the Permittee;

(4) Temporarily relocating or moving a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, air conditioning or heating unit, or the like) in order to perform some sort of construction, maintenance, or repair by the Permittee; or

(5) Permanently removing a Permittee's equipment or other appurtenances due to the revocation, termination, or non-renewal of the franchise (if applicable).

(F) The requirements imposed upon the Permittee extend to any subcontractor or independent contractor that the Permittee might employ to perform the tasks pursuant to the permit.

(G) The requirements of this section shall not apply to the removal by a Permittee of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the City granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the County Recorder.

§ 152.030 RESTORATION OF PUBLIC PROPERTY; PATCHING AND RESTORATION POLICIES, PROCEDURES, AND GUIDELINES.

(A) The Permittee shall, at their own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations, design standards, and specifications promulgated by the City and shall be accomplished within the time limits set forth in the permit, unless otherwise modified by the City.

(B) Temporary Surfacing. Temporary surfaces are a critical component in maintaining highway and worksite safety. They can significantly reduce potential life-safety hazards and minimize collateral damage to adjacent road surfaces when properly installed.

(C) No trenches shall remain open overnight or for cessation of work of more than eight (8) hours.

(D) Requirements governing the proper use and installation of temporary surfacing include:

(1) Temporary asphalt surfaces are required on any street opening if the final/permanent surface is not installed at the end of each workday.

(2) Temporary restoration of trenches for overnight use shall be accomplished by using MC mix (cold mix), Asphalt Treated Base (ATB), or steel plates, as approved by the City.

(3) Regardless of method, the trench must be filled flush with asphalt to provide a smooth riding surface.

(4) The City may approve steel plates:

(a) When backfill operations of an excavation in the traveled way, whether transverse or longitudinal, cannot be properly completed within a workday, steel plate bridging with non-skid surface and shoring may be required to preserve unobstructed traffic flow;

(b) The Permittee shall ensure that plating is structurally safe and adequate, but in no case less than the following requirements:

<u>Trench Width</u>	<u>Minimum Plate Thickness</u>
<u>Up to twelve (12) inches</u>	<u>½"</u>
<u>> 12" and < 24"</u>	<u>¾"</u>
<u>> 24" and < 30"</u>	<u>1"</u>
<u>> 30" and < 60"</u>	<u>1 ¼"</u>

(c) Plates must be milled into the asphalt, so they are flush with the existing surface and placed using mastic and secured to the existing pavement by mechanical means;

(d) Plates should be welded together whenever possible to avoid slippage and pinned in place using approved dowels;

(e) Approach plate(s) and ending plate (if longitudinal placement) shall be attached to the roadway by minimum of two dowels through pre-drilled holes in the corners of the plate and drilled at least three inches (3") into the pavement. Subsequent plates are butted to each other.

(f) Fine graded asphalt concrete shall be compacted to form ramps, maximum (slope eight and one-half percent (8.5%) with a minimum of twelve-inch (12") taper) to cover all edges of the steel plates. Hot or cold mix asphalt must be placed around the perimeter surface of the plate;

(g) When steel plates are removed, the dowel holes in the pavement shall be backfilled with either graded fines of asphalt concrete mix or concrete slurry or equivalent slurry that is approved by the City Engineer;

(h) The contractor is responsible for maintenance of steel plates, shoring, asphalt concrete ramps, and ensuring that they meet minimum specifications; and

(i) Install signage W8-24 "Steel Plate Ahead" when steel plates are placed on the roadway, and place sign W1-1 "Bump" with a W16-7P diagonal downward pointing arrow adjacent to the steel plate.

(E) Work Site Restoration. Unless authorized by the City Engineer ~~on the permit~~, all paving, resurfacing, or replacement of street facilities ~~on major or collector streets shall be done in conformance with the regulations contained herein within:~~

(1) Within three (3) calendar days, and or within seven (7) calendar days from the time the excavation commences on all other streets, except, or

(2) Except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering regulations; in winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible, including emergency permits issued between November 1 and March 15.

(F) The type and extent of site restoration is based on the location, width, depth, condition of road, number of excavations and distance between excavations.

(1) Perpendicular Cuts.

(a) A "T" patch shall be made where the asphalt shall be removed and replaced a minimum of:

(i) Two feet (2') beyond the limits of any excavation, including undermining, where the excavation is up to four feet (4') in depth;

(ii) Three feet (3') beyond the limits of any excavation, including undermining, where the excavation is more than four feet (4') in depth;

(iii) Match the thickness of the existing aggregate base; and

(iv) Match the thickness of the existing asphalt plus one inch (1"), provided that the asphalt patch may not have a thickness of less than four inches (4") or more than seven inches (7").

(b) On collector and arterial roads, perpendicular cuts shall extend to the full width of any travel lane regardless of the age of the road.

(c) When multiple cuts are made in the same location, the asphalt shall be milled and overlaid between patches that are thirty feet (30') or closer to one another.

(d) When three (3) or more cuts are made, a chip seal and fog coat shall be placed over the top of the patches. The chip seal shall extend across all patches and shall be the full width of the road.

(2) Longitudinal/Parallel Cuts.

(a) Parallel cuts shall meet the same requirements as under Section 152.030(E)(1).

(b) Any parallel cuts that affect a travel lane shall be patched or overlaid to the width of the travel lane regardless of the age of the road.

(c) If the outside of the trenching is within three feet (3') of any adjacent lane line, the entire adjacent traveled lane affected will be overlaid.

(3) Excavations on a road under a moratorium due to road construction or reconstruction within the past five (5) years or application of a seal coat within the past three (3) years.

(a) A fifty foot (50') wide road patch shall be installed on either side of the excavation with the road patch extending across the entire width of the roadway; and

(b) If the roadway is under a chip seal coat moratorium, the Permittee shall also reapply the seal coat over the patch.

(4) Requirements for Paving Installed During Winter.

(a) During the winter months when local hot mix asphalt plants are closed, cold patch is used to patch road cuts.

(b) Winter Paving Plans. Winter Paving Plans are required for all pavement cuts in the City Right-of-Way installed between November 1 and March 15.

(c) Winter Paving Plans shall include, but are not necessarily limited to:

(i) Project-related information, including Permit Number, Job Address, Contractor, Temporary Patch Type, and Install Date. Temporary patches other than asphalt cold patch must be approved by the Public Works Director or City Engineer.

(ii) Cold patch (temporary patch) must be regularly checked and maintained by contractor throughout the winter months until a permanent patch is installed. If the patch is damaged or destroyed, the contractor must replace it immediately.

(iii) Patch must be flush to the road surface when installed. If the patch is raised above the road surface and causes damage to City snow-removal equipment, the contractor shall be held liable for damages.

(iv) Permanent Patch Plans for installing permanent patch shall include, but are not necessarily limited to:

(aa) Asphalt plant source for the hot mix;

(bb) Paving subcontractor;

(cc) Company performing the compaction tests; and

(dd) Anticipated install date for the hot mix patch.

(d) Cold patch shall be removed and replaced with a hot mix asphalt patch meeting the requirements of this chapter no later than May 15.

(5) Potholing/Boring.

(a) Potholing and boring restoration shall meet the same requirements as trenching and pavement restoration.

(b) Potholing shall be a minimum of one foot (1') beyond the excavation. All affected lanes will be ground down to a depth of two inches (2") and paved not less than six-and one-half feet (6.5') wide for the entire width of the lane.

(c) Potholes greater than five feet (5') in length, width, or diameter shall be restored to trench restoration standards.

(d) Restoration requirements utilizing vector equipment will be determined by the City.

(6) Other requirements

(a) Permittees will be required to provide a batch ticket from the asphalt plant specific to the asphalt that is being installed in the permanent patch to confirm mix being applied. No permanent patch will be accepted without batch ticket.

(b) Permittees shall measure and record the ambient temperature and the temperature of the asphalt as it is being placed. If the asphalt mix temperature has dropped below the minimum required temperature set forth in City standards, it cannot be used in a permanent patch.

(c) Hot mix design for permanent asphalt patches shall be in conformance with City standards. Any material placed as a pavement patch that does NOT meet the specified standards will be considered "temporary" and must be replaced with a conforming permanent patch within seven (7) days.

(d) Concrete placed in the public way shall be in conformance with City Standards. If concrete is found not to be in conformance, it will be rejected and must be replaced with a cold weather mix approved by the City Engineer or Public Works Director.

(e) Failure to Install Permanent Patch. If the contractor has not installed the required permanent patch and has not contacted the Public Works Director or City Engineer in writing of an installation date, the City Engineer may revoke the permit. The City will use the permit bond to engage another contractor to finish the work.

(f) The City has the right to determine in the field that a full street-width (edge-of-pavement to edge-of-pavement) overlay is required due to changes in the permit conditions such as, but not limited to the following:

(i) There has been damage to the existing asphalt surface due to the contractor's equipment.

(ii) The trench width was increased significantly, or the existing pavement is undermined or damaged.

(iii) Any other construction related activities that require additional pavement restoration.

§ 152.31 (Prior Code, § 13.06.150) (Ord. 12-98, passed 5-20-1998)

§ 152.30 **HOLD HARMLESS AGREEMENT; LIMITATIONS ON CITY LIABILITY.**

—(A) —The permittee Permittee agrees to savehold the city City, its officers, employees, and agents harmless from any and all costs, damages, and liabilities which may accrue or be

claimed to accrue by reason of any work performed under any permit issued under authority of this ~~subchapter~~chapter. The issuance and acceptance of any permit under this ~~subchapter~~chapter shall constitute such an agreement by the ~~permittee~~Permittee to this section.

-
- (B) ~~This subchapter~~chapter shall neither be construed as imposing upon the ~~city~~City, or its officers, employees, and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this subchapter, nor shall the ~~city~~City, its officers, officials, employees, agents, volunteers, or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

(Prior Code, § 13.06.160) (Ord. 12-98, passed 5-20-1998)

(C) The hold harmless agreement shall remain in force during the permit warranty period.

§ 152.032 TAMPERING WITH TRAFFIC BARRICADES.

It shall be unlawful for any person to maliciously or wantonly, or without authorization and legal cause, extinguish, remove, or diminish any light illuminating any barricade or excavation, or to tear down, remove, or in any manner alter any rail, fence, or barricade protecting any excavation or other construction site.

§ 152.033 CONFLICT WITH GOVERNING PROVISIONS.

Should there be a conflict between the provisions of this ordinance and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a public right of way, the more restrictive provisions of the aforesaid documents shall apply.

§ 152.090 ENFORCEMENT: NOTICE OF VIOLATION, CORRECTIVE ACTIONS, AND STOP WORK ORDERS.

(A) The City Engineer and Public Works Director shall have the authority to issue notices of violation under this chapter.

(B) Notices of violation may be issued, and fines and penalties imposed for:

~~§ 152.31~~ WORK WITHOUT PERMIT.

~~—(A) A stop work order may be issued by the City Engineer directed to any person or persons doing or causing any work to be done in the public way without a permit.~~

~~—(B) Any person found to be doing work in the public way without having obtained a permit, as provided in this subchapter, shall be required to pay a permit fee equal to two times the normal permit fee. For replacement work, where a fee is not normally charged, the normal permit fee for new construction shall apply.~~

~~(Prior Code, § 13.06.170) (Ord. 12-98, passed 5-20-1998)~~

§ 152.32 FAILURE TO COMPLY; DEFAULT IN PERFORMANCE.

~~—(A) Any permit may be revoked or suspended, and a stop work order issued by the City Engineer, after notice to the permittee for:~~

- 1302 —(1)— Violation of any condition of the permit, the bond, or of any provision of this
 1303 subchapterchapter;
 1304 —(2)— Violation of any provision of any other ordinance of the ~~city~~City or law relating to
 1305 the work; or
 1306 —(3)— Existence of any condition, or the doing of any act, which does constitute, may
 1307 constitute, or causes a condition endangering life or property;
 1308 —(B)—(4) Failure to conform to City design standards; and/or
 1309 (5) Excavating in the right of way without a permit.

1310
 1311 (C) Other enforcement actions that may be imposed include:

- 1312 (1) Revocation or suspension of permit;
 1313 (2) Full stop work order;
 1314 (3) Conditional stop work order;
 1315 (4) Order removal and replacement of faulty work or restoration; and/or
 1316 (5) Require an extension of the warranty period.

1317
 1318 (D) Nothing shall preclude the Code Enforcement Officer from issuing notices of violation and
 1319 imposing finds under their jurisdiction, including City Code, Chapter 90: Health and
 1320 Sanitation; Nuisances.

1321
 1322 **§ 152.091 EFFECT OF ENFORCEMENT ACTIONS.**

1323 (A) A suspension or revocation by the City Engineer, and of the permit shall have the same
 1324 effect as the issuance of a stop-work order;

1325
 1326 (B) A stop-work order shall take effect immediately upon entry thereof by the Public Works
 1327 Director or the City Engineer, and notice given to the person performing the work in the
 1328 public right of way.

1329
 1330 (C) Notice to the person performing the work shall be accomplished when the Public Works
 1331 Director or City Engineer has posted a stop-work order at the location of the work and
 1332 written notice has been mailed, return receipt requested, to the address indicated by the
 1333 permitteePermittee on the permit.

1334 —(C)—

1335 (D) A stop-work order shall take effect without notice having been mailed if in the opinion of
 1336 the Public Works Director or City Engineer that with the violation there exists any condition,
 1337 or act undertaken by the Permittee, which does constitute, may constitute, or causes a
 1338 condition endangering life or property.

1339
 1340 (E) Whenever the Public Works Director or City Engineer finds that a default has occurred in
 1341 the performance of any term or condition of the permit, written notice thereof may be
 1342 given to the principal and to the surety on the bond, if there is a surety bond. Such notice
 1343 shall state the work to be done, the estimated cost thereof, and the period of time deemed
 1344 by the City Engineer to be reasonably necessary for the completion of the work.

1345 —(D)—

(F) In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety, and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the cityCity for the cost of doing the work, as set forth in the notice, the cityCity may perform the work, at the discretion of the Public Works Director or City Engineer, with cityCity forces or contract forces or both, and suit may be commenced by the City Attorney against the contractor and bonding company, and such other persons as may be liable, to recover the entire amount due to the cityCity, including attorney's fees, on account thereof.

(1) In the event that cash has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.
(Prior Code, § 13.06.180) (Ord. 12-98, passed 5-20-1998) Penalty, see § 152.99

§ 152.33 FAILURE TO CONFORM TO DESIGN.

—For failure to conform to the design standards and regulations, the City Engineer may:

- (A) Suspend or revoke the permit;
- (B) Issue a stop work order;
- (C) Order removal and replacement of faulty work;
- (D) Require an extended warranty period; and/or
- (E) Negotiate a cash settlement to be applied toward future maintenance costs.

(Prior Code, § 13.06.190) (Ord. 12-98, passed 5-20-1998)

§ 152.34 APPEAL OF SUSPENSION, REVOCATION, OR STOP WORK ORDER.

—Any suspension, revocation, or stop work order by the City Engineer may be appealed by the permittee to the Mayor (or his or her designee) by filing a written notice of appeal within ten days of the action of the City Engineer. The Mayor (or his or her designee) shall hear such appeal, if written request therefor be timely filed, as soon as practicable, and render his or her decision within a reasonable time following filing of the notice of appeal.

(Prior Code, § 13.06.200) (Ord. 12-98, passed 5-20-1998)

§ 152.35 TAMPERING WITH TRAFFIC BARRICADES.

—It shall be unlawful for any person to maliciously or wantonly, or without authorization and legal cause, extinguish, remove, or diminish any light illuminating any barricade or excavation, or to tear down, remove, or in any manner alter any rail, fence, or barricade protecting any excavation or other construction site.

(Prior Code, § 13.06.210) (Ord. 12-98, passed 5-20-1998) Penalty, see § 152.99

EXCAVATION; CLEAN FILL SITES

§ 152.50 PURPOSE.

—It is the purpose and object of this subchapter to establish reasonable and uniform limitations, safeguards, and controls for excavation and/or clean fill sites within the city as herein described. These provisions are deemed necessary in the public interest to effect practices which will provide protection of the tax base, provide for the economical use of vital materials necessary for

our economy, and give due consideration to the present and future use of land in the interest of promoting the public health, comfort, safety, and general welfare.
(Ord. 4-92, passed 1-15-1992)

§ 152.51 DEFINITIONS.

—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates, or requires, a different meaning.

—*CLEAN FILL.*

—(1) The permanent placement upon the land in natural depressions and other locations of dirt, rock, sand, gravel, pieces or slabs of concrete, brick, steel rebar, and other similar non-toxic, inert, non-garbage material for the purpose of disposal.

—(2) The following materials may also be considered as *CLEAN FILL*, provided they are not placed in or directly affect groundwater at any time: wood products, demolitions from buildings, siding, shingles, lumber, and tar paper. Asphalt may only be allowed in clean fill sites under special conditions, as approved by the Weber Morgan Health District on a case-by-case basis.

—*EXCAVATION.* The removal of clay, soil, granite, flagstone, slate, shale, limestone, sandstone, sand, or gravel from the earth by excavating, stripping, leveling, or any other process, together with all other types of mining operations where material is removed from the earth, except that dredging operations in the beds of existing rivers and streams shall not be covered by this subchapter.

(Ord. 4-92, passed 1-15-1992)

§ 152.52 ENFORCEMENT.

—(A) *City Engineer to enforce.* The City Engineer is hereby designated and authorized as the officer charged with the enforcement of this subchapter.

—(B) *Powers and duties of City Engineer.* It shall be the duty of the City Engineer, in cooperation with the Weber Morgan Health District, to inspect or cause to be inspected as often as necessary all excavations and clean fill sites.

—(C) *Enforcement.* Where it is determined by the City Engineer that excavation or fill is proceeding not in compliance with the provisions of this subchapter, he or she shall enforce the provisions of this subchapter, and in performance of this duty may enter actions in the courts where necessary, and his or her failure to do so shall not legalize any violation of such provisions.

(Ord. 4-92, passed 1-15-1992)

§ 152.53 OPERATIONAL REQUIREMENTS.

—All excavation and clean fill operations conducted or carried on are subject to the following limitations, restrictions, and controls.

—(A) *Dust, noise, vibration, smoke, lights, and odor.* All equipment and machinery used on the site of an excavation or clean fill operation shall be constructed, maintained, and operated in such a manner so as to minimize dust, noise, vibration, smoke, welding, lights, and odor. Access and haulage roads on the site shall be maintained in a dust-free condition by asphalt or dust-proof oil surfacing, or other approval treatment as determined by the City Engineer.

—(B) *Fencing or barriers.* Fencing or other suitable barriers shall be created and maintained on the excavation or clean fill site, or on portions of the site where such fencing is practicable and necessary because of dangerous conditions as determined by the City Engineer.

—(C) *Landscaping.* The planting of trees and shrubs, and other appropriate landscaping, should be encouraged when natural conditions make such feasible and practicable in order to screen excavation or clean fill operations from normal view, to enhance the general appearance, and to

minimize the damaging effect of such operations to the beauty and character of the surrounding countryside.

—(D) *Related manufacturing operations.* The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete, the production of asphalt mixes, and any similar production or manufacturing processes which might be related to an excavation operation shall not be permitted except as otherwise providing in the zoning ordinance.

—(E) *Washing.* The washing of sand and gravel shall be done so as to prevent the discharge of wastewater onto any public or private roads, or any private property without the consent of the owner.

—(F) *Hours of operation.* Excavation and clean fill operations shall not begin before 7:00 a.m. and shall not continue after the hour of 6:00 p.m., and no operation shall take place on Sunday or legal holidays. During periods of national or unusual emergency, time and hours of operation may be altered at the discretion of the City Council.

—(G) *Excavation, backfilling, or topfilling.*

—(1) Where backfilling or topfilling is required in accordance with § 152.54, the excavation or clean fill shall be graded or filled with non-noxious, non-flammable, non-combustible solids. The materials used or the method of fill shall not be such so as to create a health hazard, nor which would be objectionable as determined by the City Engineer because of odor or unsightliness. This backfill or topfill must be of such material as will encourage natural vegetation to reappear.

—(2) The graded or filled area shall not be contoured so that it will collect and permit stagnant water to remain thereon.

—(3) The peaks and depressions of the excavation or clean fill area shall be reduced to a surface which will result in level or gently sloping topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.

—(4) In any rehabilitation procedure which takes place in sand and gravel excavations or on clean fill sites where the material is of loose or friable nature, no slope shall be left which is steeper than a ratio of one horizontal to one vertical. In no case shall any slope exceed the normal angle of repose of the material involved.

—(H) *Time limitation.* Within one year after cessation of the operation, all temporary structures (except fences), equipment, rock piles, rubble heaps, or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition as determined by the City Engineer.

(Ord. 4-92, passed 1-15-1992) Penalty, see § 152.99

§ 152.54 REHABILITATION.

—In order to ensure that the area of excavation or clean fill operation shall be rehabilitated to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the commencement of excavation, submit to the City Planning Commission a plan showing the extent of excavation or clean fill and rehabilitation in the form of the following:

—(A) A full and adequate description of all phases of the contemplated operation and the specific mention of the types of machinery and equipment which will be or might be necessary to carry on the operation;

—(B) A legal description of the proposed site with a map showing its location and with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation;

—(C) A topographic map of the area at a maximum contour interval of five feet extending beyond the site to the nearest public street or highway, or to a minimum distance of 300 feet on all sides;

—(D) A physical rehabilitation plan showing the proposed contours of the excavation or clean fill before and after rehabilitation and other special features of rehabilitation, and the method by which such rehabilitation is to be accomplished;

—(E) (1) A bond, written by a licensed surety company, a certified check, or other financial guarantee in an amount to be fixed by the City Council, as recommended by the City Engineer, sufficient to secure the performance of the rehabilitation agreement. Such amount may be determined only after an adequate and thorough investigation of such operation, and after issuance of special findings based on a rehabilitation cost analysis which clearly justifies the amount of the bond. Such agreement and financial guarantee shall be in a form approved by the City Attorney; and

—(2) In the event of the applicant's failure to fulfill this agreement, such bond, check, or other financial guarantee shall be deemed forfeit for the purpose of performing the rehabilitation.

—(F) Rehabilitation shall proceed as soon as practical after termination of the excavation or clean fill operations as determined by the City Engineer. However, the owner or operator may, at his or her option, submit a plan for progressive rehabilitation to the Planning Commission as the operation is being carried on. The required bond in such case shall be sufficient to cover progressive stages of the rehabilitation as provided in approved plans for periods of not less than two years.

(Ord. 4-92, passed 1-15-1992)

§ 152.55 APPROVAL.

—(A) The Planning Commission shall consider the excavation, clean fill, and rehabilitation plans and all data and information pertaining thereto and shall have 30 days in which to make a recommendation to the City Council members.

—(B) The City Council may approve or disapprove the proposal.

—(1) If approved, the City Council shall instruct the City Engineer to issue an excavation permit or clean fill permit, which shall state any conditions or limitations to be imposed.

—(2) If disapproved, the City Council shall indicate its disapproval in writing to the applicant with reasons therefore.

—(C) Proposed excavation or fill sites located in designated floodplains, wetlands, or other sensitive areas shall have prior approval of appropriate federal, state, and local agencies.

(Ord. 4-92, passed 1-15-1992)

§ 152.56 EXCEPTIONS.

—(A) *Sod and agricultural operations.* The provisions of this subchapter shall not apply to the removal of sod or other bona fide agricultural land leveling operations.

—(B) *Topsoil.* The provisions of this subchapter shall not apply to the removal of topsoil; provided, the operation shall be not closer than ten feet to any property line or to a depth in excess of 18 inches, or so as to adversely affect the drainage of the area.

—(C) *Commercial disposal.* The provisions of this subchapter shall not apply to any operation which is incident to legitimate use of the premises; provided, however, where such operation involves the commercial disposal of the material removed or placed, such commercial disposal shall be limited to a maximum period of six months.

—(D) *Hours of operation.* The City Council may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation.

—(E) ~~Quantity.~~ Excavation or clean filling of less than 1,000 cubic yards over a period of six months from a single parcel of land, as recorded in the office of the City Recorder, is not subject to the requirements of this subchapter.

—(F) ~~Other exceptions.~~ In cases where unusual topographical or other exceptional conditions exist, variations and exceptions from this subchapter may be made by the City Council after recommendation by the Planning Commission.
(Ord. 4-92, passed 1-15-1992)

§ 152.57 EXISTING OPERATIONS.

—Within 90 days after adoption of this subchapter, existing operations shall comply with the provisions set forth in §§ 152.53 and 152.54. In no case, however, shall requirements be imposed which are economically or engineering unreasonable, as determined by the City Engineer, in respect to conditions resulting from operations prior to the adoption of this subchapter.
(Ord. 4-92, passed 1-15-1992)

§ 152.99 PENALTY.

—(A) Any person violating any provisions of this chapter, for which no specific penalty is prescribed, shall be subject to § 10.99.

—(B) —

(G) Any damage to City-owned facilities or damages resulting from the interruption of services caused by any Person working without a permit shall be the sole responsibility of that Person. The City shall employ whatever resources necessary, City personnel and equipment, contractors, or both, to repair damage and/or re-establish services and the entire cost of those resources shall be borne by the Person.

(H) A stop-work order may be lifted after the Permittee has made all corrective actions to the satisfaction of the City Engineer.

(I) Fines, penalties, or cost of damages must be paid in full before the City will issue a permit to commence the suspended work.

(J) A stop-work order may be lifted conditionally before or during the implementation of corrective actions, in the judgment of the City Engineer, as long as resumption of the work does not continue, not constitute, nor cause a condition endangering life or property.

(K) The City reserves the right to revoke a permit and issue no further permits to any person who has failed to correct any default that has occurred in the performance of any term or conditions of this chapter.

(L) The Permittee may appeal a stop-work order pursuant to the appeal procedure set forth in §152.021(F).

§ 152.092 PENALTIES.

(A) Unless otherwise specified in §§ 152.15 through 152.35, this ordinance, a violation of any provision of §§ 152.15 through 152.35, this chapter, or failure to comply with an order of

suspension, revocation, or stop-work, shall be a ~~Class~~class B misdemeanor ~~with~~
corresponding fines and jail penalties.

(B) Each day ~~the~~any permit violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of §§ ~~152.15 through 152.35~~this chapter.

(Prior Code, § 13.06.230)

~~—(C)—~~

(C) Any person owning or maintaining facilities or structures in the public way who fails to alter, modify, or relocate such facilities or ~~structures~~structure upon notice ~~to do so~~ by the City Engineer, ~~as stated in § 152.25~~, shall be guilty of a ~~Class~~class B misdemeanor, with corresponding fines and jail penalties. All costs of alteration, modification, or relocation shall be borne by the person owning or maintaining the facilities or structures involved.

(Prior Code, § 13.06.110)

~~—(D)— Any person violating any provision or provisions of §§ 152.50 through 152.57 shall be deemed guilty of a misdemeanor and punished by imprisonment in the city jail for a period not exceeding six months and/or by a fine in any sum less than \$1,000.~~

~~(Ord. 4-92, passed 1-15-1992; Ord. 12-98, passed 5-20-1998)~~

(D) Violators may also be subject to penalties that may be imposed by the state, county, or federal government.

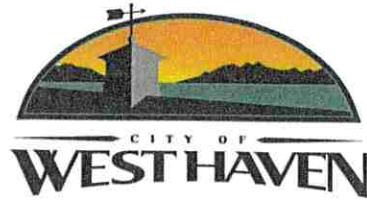
STAFF REPORT

TO: Mayor, City Council, and Shawn Warnke – City Manager

FROM: Amy Hugie, City Attorney

DATE: February 27, 2024

SUBJECT: Interlocal Agreement with Weber County for Municipal Solid Waste Disposal



Background

Weber County owns and operates a transfer station for the disposal of municipal solid waste. The City currently takes all of its municipal solid waste to this transfer station. The County has expended a great deal of cost and time managing and operating the transfer station. In order to keep fees as low as possible, the County is requesting that each City in the County enter into an Interlocal Agreement regarding each City committing to taking their municipal solid waste to the County's transfer station. As of today, 17 out of 19 cities have agreed to enter into this interlocal agreement. Huntsville and West Haven are the last two cities. Huntsville is in the approval process currently.

Analysis

A decision needs to be made regarding whether the City wishes to enter into this Interlocal Agreement. There is no other cost-effective facility for the City to take their municipal solid waste since this transfer station is so close and is within a mile of part of the City's eastern border. The only other possible solution would be for all of the cities to request that the transfer station become a special service district so that all of the cities could sit on the board and have some control over rates and management. However, the consensus of the Solid Waste Subcommittee which is made up of mayors and city managers/administrators of all of the cities in the County, along with a couple of members of the County staff, is that the majority would not be interested in that path for whatever reason, which was not made clear in the last meeting.

Entering into this agreement will not change anything really – either cost or how the City manages their municipal solid waste. The Agreement will essentially last twelve years (with the automatic renewal periods). Either party can terminate by giving six months' written notice or by both parties agreeing in writing to terminate.

Options

1. The City Council approves the Interlocal Agreement.
2. The City Council denies the Interlocal Agreement.
3. The City Council tables the discussion and requests additional information.

Resolution No. 07-2024

**RESOLUTION OF WEST HAVEN CITY AUTHORIZING ADOPTION OF THE
INTERLOCAL AGREEMENT BETWEEN WEBER COUNTY AND THE CITY OF WEST
HAVEN FOR MUNICIPAL SOLID WASTE DISPOSAL; AUTHORIZING THE CITY
MAYOR TO SIGN THIS RESOLUTION AND TO SIGN THE INTERLOCAL
AGREEMENT ON BEHALF OF THE CITY; AND, PROVIDING FOR AN EFFECTIVE
DATE.**

SECTION I – RECITALS:

WHEREAS, the City Council of West Haven City (herein "City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, in conformance with the provisions of UCA § 10-3-717, the governing body of the City may exercise all administrative powers by resolution including, but not limited to entering into agreements with regarding protecting the health, safety, and welfare of the public; and,

WHEREAS, Weber County (herein "County") provides municipal solid waste disposal services to the City by operating a transfer station where the City has caused to be delivered their municipal solid waste; and

WHEREAS, the County has spent considerable time and resources owning, managing, and operating the transfer station; and

WHEREAS, the County wishes to have all of the cities within Weber County commit to bringing their municipal solid waste to the transfer station so that the waste stream is protected and thus keeping costs as low as possible for all County residents; and

WHEREAS, the City wishes to have the lowest possible cost for municipal solid waste disposal for their citizens; and

WHEREAS, the City Council feels that the best way to accomplish this goal is to enter into this Interlocal Agreement with Weber County; and

WHEREAS the City Council now desires to adopt this Interlocal Agreement by accepting the terms thereof; and,

WHEREAS, the City finds that the public convenience and necessity requires the actions herein contemplated,

NOW, THEREFORE, BE IT RESOLVED by the City of West Haven as follows:

SECTION II. INTERLOCAL AGREEMENT :

1. That the Interlocal Agreement between West Haven City and Weber County for the municipal solid waste disposal services for the City, a copy of which is attached as Attachment A to this Resolution, is hereby adopted by the City Council.

2. That the Mayor is authorized to sign any and all documents necessary to affect this Agreement, including signing the Agreement itself.
3. That the Mayor is authorized to sign this Resolution adopting the Agreement.

The foregoing Recitals are fully incorporated herein.

SECTION III. PRIOR ORDINANCES AND RESOLUTIONS:

The body and substance of any and all prior Resolutions, together with their specific provisions, where not otherwise in conflict with this Resolution, are hereby reaffirmed and readopted.

SECTION IV. REPEALER OF CONFLICTING ENACTMENTS:

All orders, and Resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Resolution, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

SECTION V - SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Resolution and the provisions of this Resolution being deemed to be the separate independent and severable act of the City Council of West Haven City.

SECTION VI. DATE OF EFFECT

This Resolution shall be effective immediately upon its passage on the 6th day of March 2024.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WEST HAVEN CITY, STATE OF UTAH, on this 6th day of March 2024.

WEST HAVEN CITY

Mayor Rob Vanderwood

ATTEST:

Emily Green, City Recorder

Mayor Rob Vanderwood	Yes _____	No _____
Councilmember Carrie Call	Yes _____	No _____
Councilmember Kim Dixon	Yes _____	No _____
Councilmember Nina Morse	Yes _____	No _____
Councilmember Ryan Saunders	Yes _____	No _____
Councilmember Ryan Swapp	Yes _____	No _____

ATTACHMENT "A"

INTERLOCAL AGREEMENT BETWEEN WEST HAVEN CITY AND WEBER COUNTY FOR
MUNICIPAL SOLID WASTE DISPOSAL

DRAFT

INTERLOCAL COOPERATION AGREEMENT

by and among

WEST HAVEN CITY

and

WEBER COUNTY

Relating to the delivery of municipal solid waste to the Weber County Transfer Station

INTERLOCAL COOPERATION AGREEMENT

THIS IS AN INTERLOCAL COOPERATION AGREEMENT between West Haven City, which is a municipality and political subdivision of the State of Utah (“City”), and WEBER COUNTY, a political subdivision of the State of Utah (“County”).

RECITALS

WHEREAS, pursuant to the provisions of the Interlocal Cooperation Act, found in Utah Code Title 11, Chapter 13, public agencies are authorized to enter into written agreements with one another for joint or cooperative action; and

WHEREAS, the Solid Waste Management Act, found in Utah Code Title 19, Chapter 6, Part 5, specifically authorizes public entities to supervise and regulate the collection, transportation, and disposition of solid waste generated within their jurisdiction, and to require municipal residential waste generated within their jurisdiction to be disposed of at a solid waste management facility owned or operated by a public entity; and

WHEREAS, the County owns and operates a transfer station (“Transfer Station”) where solid waste is collected, processed, and then shipped to appropriate disposal sites; and

WHEREAS, the County has invested a significant amount of money in facilities and equipment to provide solid waste disposal services to county residents; and

WHEREAS, as a public benefit, the County accepts waste transported to the Transfer Station by individual county residents; and

WHEREAS, the County also provides or participates in various additional expanded services, including household hazardous waste collection, green waste recycling and

compost/wood product sales, electronics recycling, tire recycling, chlorofluorocarbon (Freon) recovery, and community education; and

WHEREAS, the services provided by the County constitute a direct benefit to the public good by providing an appropriate disposal facility for waste, thereby reducing the unlawful or inappropriate disposal of waste materials and allowing for some of them to be re-used; and

WHEREAS, the long-term committed delivery of municipal residential curb-side collected waste to the Transfer Station is critical to the funding and amortizing of the Transfer Station and its operational expenses, including expanded services; to the ability of the County to provide solid waste services to the general public in an efficient, cost-effective manner; and to the County's ability to obtain better long-term agreements for the transportation and disposal of the waste, thereby providing a lower long-term cost to the residents of the City and other parts of Weber County;

NOW, THEREFORE, the Parties mutually agree, pursuant to the terms and provisions of the Interlocal Cooperation Act, as follows:

Section 1. Purpose.

This Agreement has been established and entered into for the purpose of facilitating the efficient operation of solid waste services provided by the Parties.

Section 2. Effective Date; Duration.

- a. This Agreement shall become effective upon the completion of all of the following actions:
 - i. The Agreement is reviewed as to proper form and compliance with applicable law by the attorney for each Party;

- ii. The Agreement is approved and signed by each Party; and
- iii. The Agreement is filed with the keeper of records of each Party.
- b. The initial term of this Agreement shall be from the effective date through December 31, 2024.
- c. The Agreement shall automatically renew for additional terms of two years each, unless terminated earlier as provided in this Agreement, for a maximum of 12 years. Either Party shall have the option to terminate this Agreement at any time, by providing written notice of termination to the other Party at least six months before the date the termination will take effect.
- d. This Agreement may also be terminated at any time by mutual written agreement of the Parties.

Section 3. Waste Disposal.

In accordance with the purpose stated above, the Parties agree to the following:

- a. The City agrees to deliver, or cause to be delivered, exclusively to the County's Transfer Station, all of the household waste placed in curb-side containers by the City's residents and picked up by the City or by the company that the City contracts with to collect and dispose of curb-side residential waste. The County agrees to accept such waste, subject to the fee schedules, rules, regulations, and procedures adopted by the County. Other types of waste that are not household waste collected by the City or under a contract with the City, such as curb-side recycling and commercial waste, may be brought to the Transfer Station but are not governed by this agreement.

- b. The County agrees to own and operate the Transfer Station throughout the term of this Agreement.
- c. The City shall elect one of the following billing and payment options:
 - i. The County will bill the City for the tipping fees for curb-side waste generated by the City's residents, and the City agrees to pay each bill within 30 days of receipt.
 - ii. Or, the County will directly charge the haulers of curb-side waste generated by the City's residents. The City shall ensure that the haulers timely pay all appropriate fees.

Section 4. Additional Provisions Required by the Interlocal Cooperation Act.

- a. This Agreement and the actions contemplated herein shall not receive separate financing, nor shall a separate budget be required. Each Party to this Agreement shall pay for its own obligations arising under this Agreement.
- b. Each Party shall maintain separate ownership and control over its own real and personal property. Therefore, there will be no need for joint disposal of property upon the termination of the Agreement.
- c. Since this Agreement does not establish an interlocal entity, the Parties agree that the County's Community Development Director, or the Community Development Director's successor or designee, shall act as the administrator responsible for the administration of this Agreement.

- d. Since this Agreement relates to the use of the County's Transfer Station, voting shall be weighted in favor of the County, with the County's vote outweighing the City's vote on any vote required by this Agreement.
- e. A copy of this Agreement shall be placed on file in the office of the official keeper of records of each Party.

Section 5. Indemnification.

Each of the Parties is a political subdivision of the State of Utah and claims the privileges, protections, and immunities of the Governmental Immunity Act of Utah. Each of the Parties agrees to indemnify and hold harmless the other for damages, claims, suits, and actions arising out of the indemnifying Party's negligent or intentional errors or omissions in connection with this Agreement.

Section 6. Publication of Notice of Agreement.

Immediately after execution of this Agreement by both Parties, each Party shall cause notice of this Agreement to be published pursuant to Utah Code §11-13-219.

Section 7. Notices and Contacts.

Any notice required or permitted to be given under this Agreement shall be deemed sufficient if given by a written communication and shall be deemed to have been received upon personal delivery, actual receipt, or three days after such notice is deposited in the United States Mail, postage prepaid, and certified, and addressed to the Parties as set forth below:

For the County:
Community Development Director
Weber County
2380 Washington Blvd., Ste. 250
Ogden, UT 84401

For the City:
City Manager
West Haven City
4150 South 3900 West
West Haven, UT 84401

Section 8. Miscellaneous Provisions.

- a. Integration. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining to this subject.
- b. Waiver. No failure by any Party to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy based upon a breach thereof shall constitute a waiver of any such breach or of a breach of any other provision.
- c. Rights and Remedies. Any party in breach of this Agreement shall be liable for all damages arising out of such breach, to the fullest extent permitted by applicable law.
- d. Severability. If any provision of this Agreement, or the application thereof to any person or circumstance, shall be invalid or unenforceable to any extent, then the remaining provisions of the Agreement shall remain in full force and effect, unless the invalidation of the provision materially alters the Agreement by interfering with the purpose of the Agreement or by resulting in non-compliance with applicable law. If the invalidation of the provision materially alters the Agreement, then the Parties shall negotiate in good faith to modify the Agreement to match, as closely as possible, the original intent of the Parties. To the extent

permitted by applicable law, the Parties hereby waive any provision of law which would render any of the terms of this Agreement unenforceable.

- e. Litigation. If any action, suit, or proceeding is brought by a Party with respect to this Agreement, each Party shall bear its own costs, including attorneys' fees.
- f. Recitals. The Recitals, as set forth above, are incorporated into this Agreement.
- g. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
- h. Amendments. This Agreement may not be amended except by an instrument in writing, approved and executed in compliance with the requirements of the Interlocal Cooperation Act.
- i. No Third-Party Beneficiaries. The Parties do not confer any rights or remedies upon any person other than the Parties to this Agreement.

IN WITNESS WHEREOF, the Parties have signed and executed this Agreement on the dates listed below:

West Haven City

By: _____

Rob Vanderwood
West Haven City Mayor

DATED: _____

Attest: _____

Approved: _____

Attorney

WEBER COUNTY

By: _____ DATED: _____
Gage Froerer
County Commission Chair

Attest: _____ DATED: _____
Ricky Hatch, CPA
Weber County Clerk/Auditor

Approved: _____
Deputy County Attorney

DRAFT

STAFF REPORT

TO: Mayor, City Council, and Shawn Warnke-City Manager

FROM: Amy Hugie - City Attorney

DATE: February 28, 2024

SUBJECT: Temporary Land Use Regulation – Cluster Subdivisions and Planned Residential Unit Developments

**Background**

Councilmember Swapp has requested that a Temporary Land Use Regulation regarding certain developments be placed on the agenda for discussion. This involves Cluster Subdivisions and Planned Residential Unit Developments. If approved, this would be for 180 days and could not be renewed. Councilmember Swapp is best suited to lead the discussion regarding this issue since he is the one requesting this action.

Options

1. The City Council approves the Temporary Land Use Regulation Ordinance.
2. The City Council denies the Temporary Land Use Regulation Ordinance.
3. The City Council tables the discussion and requests additional information.

Ordinance No. 07-2024

**ORDINANCE OF WEST HAVEN CITY ADOPTING A TEMPORARY LAND USE
REGULATION REGARDING CLUSTER SUBDIVISIONS AND PLANNED
RESIDENTIAL UNIT DEVELOPMENTS WITHIN THE CITY; AND PROVIDING
AN EFFECTIVE DATE THEREFORE.**

WHEREAS, the City Council of West Haven City ("City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, in conformance with Title 10, Section 9a – the Municipal Land Use, Development and Management Act, the governing body of the City may pass ordinances regarding subdivisions and those procedures governing subdivisions and development within the City; and,

WHEREAS, in conformance with the provisions of UCA §10-9a-504, the City Council of the City may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for all of the area within the municipality; and,

WHEREAS, the City finds that UCA § 10-9a-504 also states that the City Council may only enact a temporary land use regulation or moratorium if it makes a finding of a compelling, countervailing public interest; and

WHEREAS, the City finds that there are issues regarding vague language within the sections of the City Code regarding cluster subdivisions (Sections 157.57-157.576) and also planned residential unit developments (Sections 157.430-157.441) and when and where they may or may not be allowed; and

WHEREAS, the City finds that this is a compelling, countervailing public interest to halt acceptance of any cluster subdivision and/or planned residential unit development applications until the City has reviewed, clarified, and amended the language in the City Code to fix any ambiguities and vagueness in the language regarding what is allowed and what is not allowed regarding cluster subdivisions and planned residential unit developments; and

WHEREAS, the City finds that the continued receipt of applications for any type of land use change applications involving cluster subdivisions and/or planned residential unit developments is not in the best interest of the City nor its residents and would be harmful to the public interest until the City Code's language has been clarified and amended; and

WHEREAS, the City Council finds, in conjunction with the Planning Commission of West Haven, that the City should study the impact, problems, and possible solutions to issues surrounding possible cluster subdivisions and planned residential unit developments within the City; and,

WHEREAS, the City Council finds that implementing a moratorium on accepting any type of Land Use Change Applications regarding cluster subdivisions and planned residential unit developments within the City should be accomplished so such study can be conducted; and,

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health, and welfare requires that the procedures and policies related to management of these matters and issues should be fully evaluated; now,

THEREFORE, BE IT RESOLVED by the City of West Haven:

In accordance with applicable provisions of the zoning ordinance of West Haven City and the Utah Code, a moratorium on the acceptance and processing of requests for any type of land use change applications involving cluster subdivisions and planned residential unit developments within the City is hereby imposed for one hundred and eighty (180) days following adoption of this ordinance by the City Council for the purpose of reviewing present zoning ordinance requirements; and clarifying and amending the language in the City Code to fix any ambiguities and vagueness in the language regarding what is allowed and what is not allowed regarding cluster subdivisions and planned residential unit developments. This moratorium does not apply to those subdivisions which already have preliminary approval as of this date.

The foregoing Recitals are fully incorporated herein.

BE IT FURTHER RESOLVED that the foregoing recitals are incorporated herein and this Ordinance shall become effective immediately upon its passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WEST HAVEN CITY, STATE OF UTAH, on this 6th day of March 2024.

WEST HAVEN CITY

By: _____
Mayor Rob Vanderwood

ATTEST:

Emily Green, City Recorder

Mayor Rob Vanderwood	Yes _____	No _____
Councilmember Carrie Call	Yes _____	No _____
Councilmember Kim Dixon	Yes _____	No _____
Councilmember Nina Morse	Yes _____	No _____
Councilmember Ryan Saunders	Yes _____	No _____
Councilmember Ryan Swapp	Yes _____	No _____