

CITY OF LAVON, COLLIN COUNTY TEXAS**ORDINANCE NO: 2002-01-02**

AN ORDINANCE OF THE CITY OF LAVON, COLLIN COUNTY, TEXAS PROVIDING FOR FOR THE PLACEMENT OF STRUCTURES AND FACILITIES, CONSTRUCTION, EXCAVATION, ENCROACHMENTS, AND WORK ACTIVITIES WITHIN OR UPON ANY PUBLIC RIGHT-OF-WAY AND TO PROTECT THE INTEGRITY OF THE ROAD AND CITY UTILITY SYSTEM, REQUIRE PERMITS OF PRIVATE USERS OF THE PUBLIC RIGHTS-OF-WAY AND TO ESTABLISH PERMIT PROCEDURES, RULES, AND REGULATIONS FOR WORK DONE WITHIN OR UPON THE PUBLIC RIGHTS-OF-WAY, PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE, AND PROVIDING SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lavon has been presented with concerns by citizens regarding the control "right of way" management in the City of Lavon;

WHEREAS, the City Council has given due and diligent thought to this concern; and

WHEREAS, the City Council believes it is in the best interest for the City of Lavon, its citizens and visitors to protect the integrity of the road and future city utility systems.

NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, COLLIN COUNTY, TEXAS:

ARTICLE I. IN GENERAL

Sec. 1-1. Obstruction of streets, alleys, sidewalks, or public grounds.

- (a) It shall be unlawful for any person to obstruct or encumber, entirely or in part, any portion of any public street, alley, sidewalk, or public property in the city with any item, whether temporary or permanent, including, but not limited to,

lumber, boxes, firewood, posts, fences, and vehicles, unless authorized by city ordinance.

(b) Any person, firm, or corporation violating any of the provisions or terms of this section shall, upon conviction thereof, be fined a sum not exceeding five hundred dollars (\$500.00) for each offense, and each and every day such violation shall be deemed to constitute a separate offense.

(c) In addition to the penalty provided above, in the event that any person violates the provisions of this section, the city has the right to remove any such obstruction or encumbrance. The costs, charges, and expenses incurred by the city in the removal, storage, or disposal of the obstruction or encumbrance ("the charges") shall be a charge to and personal liability of the violator and/or Land owner.

ARTICLE II. DESIGN AND CONSTRUCTION

Sec. 1-2. Driveway approaches.

A driveway approach shall be defined as the paved portion of a driveway intended for vehicular traffic and running from the street curb line or edge of paving to the property line.

(1) A driveway approach connecting to a street shall conform to the following standards:

a. General requirements. Driveway approaches shall be constructed of reinforced concrete and shall be a minimum of six (6) inches thick. No part of the driveway approach shall cross over the projection, to the street, of the adjacent property line.

b. Concrete specifications. Concrete for driveway approaches shall have meet the specifications set forth in the building codes.

c. Construction methods. The subgrade shall be excavated and shaped to line grade in cross section and, if considered necessary by the city's inspector, tamped and sprinkled. The subgrade shall be moist at the time the concrete is placed. Forms shall be of wood or metal, straight, free from warp and of a depth equal to the thickness of the finished work. They shall be securely staked to line and grade and maintained in a true position during the depositing of concrete. The reinforcing steel shall be placed in position, and care shall be exercised to keep all steel in its proper location.

d. Connection to asphalt pavement. When connecting a driveway approach to asphalt street paving, the concrete shall be separated from the edge of the existing pavement by an eighteen-inch strip of hot mixed asphaltic concrete at least six (6) inches in depth. All other applicable requirements listed above concerning concrete and reinforcing steel shall remain in effect.

e. Texas Highway Department permit. All driveway approaches connecting to existing roads which are a part of the state highway system will require a permit from that organization in addition to those required by this article. Such city permit shall be applied for through the city secretary's office.

(2) A driveway approach connecting to an alley shall conform to the following standards:

a. General requirements. Driveway approaches shall be constructed of reinforced concrete and shall be a minimum of six (6) inches thick. No part of the driveway approach shall cross over the projection, to the street, of the adjacent property line.

b. Concrete specifications. Concrete for driveway approaches shall have meet the specifications set forth in the building codes.

c. Construction methods. The subgrade shall be excavated and shaped to line grade in cross section and, if considered necessary by the city's inspector, tamped and sprinkled. The subgrade shall be moist at the time the concrete is placed. Forms shall be of wood or metal, straight, free from warp and of a depth equal to the thickness of the finished work. They shall be securely staked to line and grade and maintained in a true position during the depositing of concrete. The reinforcing steel shall be placed in position, and care shall be exercised to keep all steel in its proper location.

Sec. 1-3. Sidewalk and location design standards.

(a) Definition of sidewalk. A sidewalk is defined as that paved area in a roadway right-of-way between the curb lines or the edge of pavement of the roadway and the adjacent property lines for the use of pedestrians. The maximum grade of the sidewalk above the adjacent curb shall be one-quarter (1/4) inch per foot, as measured on a perpendicular line from the curb to the closest edge of the sidewalk. These sidewalks shall conform to the standards set out in subsection (b) hereof.

(b) Standards.

- 1) Sidewalks shall be constructed to the specifications for sidewalks as outlined in City of Lavon Subdivision Ordinance 2000-02-01 Section 5.05

Sec. 1-4. Permit required.

(a) A permit issued by the city shall be required before the start of any construction hereunder. In order to obtain a permit as required by this article, the contractor or his authorized representative shall file with the city secretary's office an application in writing therefor on a form to be furnished for that purpose. Such contractor shall be registered with the chief building official. Each applicant for a permit shall describe the abutting property adjacent to which the proposed work on public property is to be done, either by lot, block or tract and house number, location on the street or similar description which will readily identify and definitely locate the site of proposed work. Each applicant shall give such other pertinent information as required by the chief building official.

(b) Any person desiring a permit required by this article shall, at the time of filing an application therefor, pay the current fee.

ARTICLE III. RIGHT-OF-WAY MANAGEMENT REGULATIONS

Sec. 1-5. Title.

This article shall be known and cited as the Right-of-Way Management Ordinance for the City of Lavon, Texas.

Sec. 1-6. Construction; governing law; venue.

This article shall be construed under and in accordance with the laws of the State of Texas and City Ordinance to the extent that such City Ordinances are not in conflict with or in violation of the Constitution and laws of the United States or the State of Texas. All obligations of the parties hereunder are performable in Collin County and/or Rockwall County, Texas.

Sec. 1-7. Scope.

This article shall be effective within the geographical limits of the city, including any areas subsequently annexed by the city.

Sec. 1-8. Purpose; objectives; applicability.

(a) Purpose. This article provides principles and procedures for the placement of structures and facilities, construction, excavation, encroachments, and work

activities within or upon any public right-of-way and to protect the integrity of the road and city utility system. To achieve these purposes, it is necessary to require permits of private users of the public rights-of-way and to establish permit procedures, rules, and regulations for work done within or upon the public rights-of-way.

(b) Objectives. Public and private uses of public rights-of-way for location of facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the City of Lavon must insure that the primary purpose of the rights-of-way, safe passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, roadways, the city utility system, facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the public rights-of-way by persons, agencies, and public infrastructure contractors is secondary to these public objectives and the movement of traffic. This article is intended to strike a balance between the public need for efficient, safe transportation routes and the use of public rights-of-way for location of facilities by public and private entities. The article thus has several objectives:

- (1) To insure that the public safety is maintained and that public inconvenience is minimized.
- (2) To protect the city's infrastructure investment by establishing repair standards for the pavement, facilities, and property in the public rights-of-way when work is accomplished.
- (3) To facilitate work within the public rights-of-way through the standardization of regulations.
- (4) To maintain an efficient permit process.
- (5) To conserve and fairly apportion the limited physical capacity of the public rights-of-way held in public trust by the city.
- (6) To establish a public policy for enabling the city to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition, and technological development.
- (7) To promote cooperation among the agencies and public infrastructure contractors (as defined herein) and the city in the occupation of the public rights-of-way, and work therein, in order to
 - a. eliminate duplication that is wasteful, unnecessary or unsightly,

b. lower the agencies', public infrastructure contractors' and the city's costs of providing services to the public, and

c. preserve the physical integrity of the streets and highways by minimizing street cuts.

(8) To assure that the city can continue to fairly and responsibly protect the public health, safety, and welfare.

(c) Applicability.

(1) The requirements of this article apply to all persons, agencies, and public infrastructure contractors that place structures and facilities or that conduct construction, excavation, encroachments, and work activities within or upon any public rights-of-way except:

a. Persons, agencies, or public infrastructure contractors conducting projects for single-family and two-family residence-zoned properties. All permits for these properties will be issued through the city's building inspection department.

b. New residential service connections which are permitted through the building inspection department of the City of Lavon as provided in section 1-16(a)(4) below.

(2) Any permit issued prior to January 1, 2002, will remain subject to the terms and conditions of city ordinances and requirements in effect at the time of issuance of the permit and is not affected by this article, except that, upon expiration or conclusion of the permit, a new or renewal permit must be obtained in accordance with this article.

Sec. 1-9. Definitions.

Agency means any person (including franchised or licensed person) or certificated telecommunications provider. "Agency" includes all contractors and sub-contractors hired or retained to do construction for an Agency.

Backfill means the restoration of excavated material.

Certificated telecommunications provider (CTP) means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the Public Utility Commission to offer local exchange telephone service.

City means the City of Lavon, Texas. As used throughout, the term city also includes the designated agent of the city.

City engineer means the city engineer of the City or his designee(s).

Closure means a complete or partial closing of one or more lanes of traffic of a major thoroughfare and the complete closure of any other type street.

Compaction means ninety-five (95) percent of maximum density with a moisture content of -2 percent to +4 percent of optimum under paved surfaces and ninety (90) percent of maximum density with a moisture content of -2 percent to +4 percent of optimum outside of paved surfaces.

Construction means excavation, installation of facilities, boring or jacking of utilities, restoration of pavement cuts, or other work by an agency or public infrastructure contractor in a public right-of-way.

Duct or conduit means a single enclosed raceway for cables, fiber optics, or other wires. "Duct" or "conduit" shall not include the maintenance duct associated with a conduit that is reserved for use in replacing damaged cable or for rerouting purposes.

Emergency means any event that may threaten public health or safety, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged facilities, downed aerial facilities, or service outages whether to one customer or an area of the city.

Excavate or excavation means to dig into or in any way remove or penetrate any part of a public right-of-way.

Facilities means the plant, equipment, and property, including, but not limited to, lines, poles, mains, pipes, conduits, ducts, cables and wires located under, on or above the surface of the ground within the public right-of-way and valves, and related facilities and equipment used or useful for the provision of utility services.

Local exchange telephone service means telecommunications service provided within an exchange to establish connections between customer premises within the exchange, including connections between a customer premises and a long distance provider serving the exchange. The term includes tone dialing service, service connection charges, and directory assistance services offered in connection with basic local telecommunications service and interconnection with other service providers. The terms does not include the following services, whether offered on an intraexchange or interexchange basis:

- (1) Central office based PBX-type services for system of seventy-five (75) stations or more;
- (2) Billing and collection services;
- (3) High-speed private line services of 1.544 megabits or greater;
- (4) Customized services;
- (5) Private line or virtual private line services;
- (6) Resold or shared local exchange telephone services if permitted by tariff;
- (7) Dark fiber services;
- (8) Non-voice data transmission service offered as a separate service and not as a component of basic local telecommunications service;
- (9) Dedicated or virtually dedicated access services; or
- (10) Any other service the Public Utility Commission determines is not a "local exchange telephone service."

Pavement cut means a cut made into the paved surface of a public street, alley, curb, sidewalk, or public easement.

Person means a natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity who owns or controls facilities.

Public infrastructure contractor means a person hired or retained to do construction of facilities that will be maintained by the city. "Public infrastructure contractor" includes all sub-contractors.

Public right(s)-of-way means the surface of, and the space above and below a public street, road, highway, freeway, land, path, public way or place, alley, court, boulevard, parkway, drive, or other easement now or hereafter held by or under the control of the city to which the city holds the property rights in regard to the use for utilities. The term does not include the airwaves above a public right-of-way with regard to wireless telecommunications. The term is synonymous with "street," "public way," and "right(s)-of-way."

Thoroughfare means any public traffic artery, major street, secondary street or alley.

Sec. 1-10. Police powers.

An agency's or public infrastructure contractor's rights hereunder are subject to the police power of the City of Lavon which include the power to adopt and enforce ordinances, including amendments to this article, necessary for the safety, health, and welfare of the public. Agencies and public infrastructure contractors shall comply with all applicable laws and ordinances enacted, or hereafter enacted, by the City of Lavon or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City of Lavon reserves the right to exercise its police powers, notwithstanding anything in this article or a permit to the contrary. Any conflict between the provisions of this article or a permit and any other present or future lawful exercise of the city's police powers shall be resolved in favor of the latter.

Sec. 1-11. City engineer's authority; enforcement; violations.

(a) City engineer's authority.

(1) The city engineer is authorized to administer and enforce the provisions of this article and to promulgate regulations, including but not limited to, engineering, technical, and other special criteria and standards to aid in the administration and enforcement of this article that are not in conflict with this article, the Ordinances of the City, or state or federal law.

(2) Enforcement. The city engineer is authorized to enter upon a construction site for which a permit is granted under this article or, where necessary, upon private property adjacent to the construction site for purposes of inspection to determine compliance with the permit or this article.

(b) Violations. A person, agency, or public infrastructure contractor commits an offense if he:

(1) Performs, authorizes, directs, or supervises construction without a valid permit issued under this article;

(2) Violates any provision of this article.

(3) Fails to comply with restrictions or requirements of a permit issued pursuant to this article; or

(4) Fails to comply with an order or regulation of the city engineer issued pursuant to this article.

(c) This article may be enforced by civil court action in accordance with state or federal law, in addition to any other remedies, civil or criminal, the city has for violation of this article.

(d) Prior to initiation of civil enforcement litigation, a person, agency, or public infrastructure contractor who has violated a provision of this article must be given the opportunity to correct the violation within the timeframe specified by the city engineer. This section does not prohibit the city engineer or the city from taking enforcement action as to past or present violations of this article, notwithstanding their correction.

Sec. 1-12. Penalties.

(a) Any person, agency, or public infrastructure contractor violating any of the provisions or terms of this article shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine not exceeding five hundred dollars (\$500.00) for each offense, and each and every day or portion thereof that such violation shall continue shall be deemed to constitute a separate offense.

Sec. 1-13. Registration.

(a) In order to protect the public health, safety and welfare, all agencies and public infrastructure contractors placing facilities or engaging in construction, excavation, encroachments, and work activities within or upon any public right-of-way must register with the City of Lavon. Registration must be renewed annually on or before January 01. The registration form to be used may be obtained from the city secretary's office. If a registration is not renewed, and subject to sixty (60) days notification to the agency, all facilities owned by agency within the city will be deemed to have been abandoned and shall become the property of the city. When any information provided for the registration changes, the agency or public infrastructure contractor shall notify the City of Lavon of the change no more than thirty (30) days after the date the change is made. Registration shall include:

(1) The name, address, and telephone number(s) of the agency that is the owner of the facilities to be located in the public rights-of-way, including the business name, assumed name, or trade name under which the agency operates or under which it has operated within the past five (5) years. In the case of a public infrastructure contractor, the name, address, and telephone number(s) of the public infrastructure contractor and the name, address, and telephone number(s) of the developer for whom the public infrastructure contractor is working.

(2) The name(s), address(es) and telephone number(s) of the person(s) who will be contact person(s) for the agency or public infrastructure contractor.

(3) The name(s), address(es) and telephone number(s) of any contractor(s) or subcontractor(s) who will be working in the public rights-of-way on behalf of the agency or public infrastructure contractor.

(4) The name and telephone number(s) of an emergency contact for the agency or public infrastructure contractor who shall be available twenty-four (24) hours a day.

(5) The name(s), address(es) and telephone number(s) of the person(s) who will be attending the utility coordination meetings for the agency or public infrastructure contractor.

(6) The name(s), address(es) and telephone number(s) of the person(s) who will be receiving plans of city construction projects on behalf of the agency or public infrastructure contractor.

(7) The name, address, and telephone number(s) of the person who will be responsible for receiving notification of abandonment issues on behalf of the agency or public infrastructure contractor.

(8) Proof of insurance as required by section 1-18 below.

(9) For agencies that are certificated telecommunications providers, a copy of the notice of approval issued by the Public Utility Commission of Texas that grants the certificated telecommunications provider a service provider certificate of operating authority (SPCOA) or certificate of convenience and necessity (CCN).

(10) The ordinance number of any franchise or license issued by the City of Lavon that authorizes the agency to use the public rights-of-way.

(b) Registration shall be a prerequisite to issuance of a construction permit. Each agency and public infrastructure contractor shall update and keep current its registration with the city at all times.

Sec. 1-14. Plans of record.

(a) As an additional part of the registration process, any agency with facilities in the public rights-of-way shall submit plans of record in accordance with the following requirements:

(1) A City Street Map marked in such a manner as to evidence which thoroughfares along which the Agency has placed facilities (not including boxes and other appurtenances) shall serve as the plans of record for the agency.

(2) On or before January 1, 2002, an agency shall submit to the city engineer a schedule to provide complete plans of record that show all of its facilities existing in the public rights-of-way as of the date the plans of record are submitted to the city engineer in compliance with this section.

(3) On or before January 31 of each calendar year following the initial submittal of its plans of record, an agency shall provide to the city engineer plans of record that show all installations of new facilities, and all changes, additions, abandonments, and relocations relating to existing facilities completed in the previous calendar year.

(b) Plans of record shall not include information that is a trade secret or other confidential information protected from disclosure by state law. Information marked "proprietary" or "confidential" will not be accepted by the city. Location information is not a trade secret or proprietary/confidential information, and this subsection may not be construed to authorize an agency to fail to provide location information.

Sec. 1-15. Permit required.

(a) Any agency or public infrastructure contractor seeking to place facilities on, in or over a public right-of-way or to engage in construction, excavation, encroachments, and work activities within or upon any public right-of-way shall first file an application for a construction permit with the city and shall abide by the terms and provisions of this article pertaining to the use of the public rights-of-way.

(b) Exception. City maintenance activities are excepted from the permitting requirements outlined herein.

(c) This article does not constitute or create authority to place, reconstruct, or alter facilities in, on or over the public rights-of-way nor to engage in construction, excavation, encroachments, or work activity within or upon any public right-of-way, and said authority must be obtained by obtaining a permit.

(d) Permits will be issued in the name of the agency that will own the facilities. Permits for public infrastructure will be issued in the name of the public infrastructure contractor.

(e) Any agency or public infrastructure contractor with a current, unexpired consent, franchise, agreement or other authorization from the city (grant) to use the public rights-of-way that is in effect at the time this article takes effect shall continue to operate under and comply with that grant until the grant expires or until it is terminated by mutual agreement of the city and the agency or public infrastructure contractor or as otherwise provided for by law.

(f) Construction, excavation, or work area. No agency or public infrastructure contractor shall perform construction, excavation, or work in an area larger or at a location different, or for a longer period of time than that specified in the permit or permit application. If, after construction, excavation, or work is commenced under an approved permit, it becomes necessary to perform construction, excavation, or work in a larger or different area than originally requested under the application or for a longer period of time, the agency or public infrastructure contractor shall notify the city secretary's office immediately and, within twenty-four (24) hours, shall file a supplementary application for the additional construction, excavation, or work.

(g) Permit transferability or assignability. The agency or public infrastructure contractor may subcontract the work to be performed under a permit provided that the agency or public infrastructure contractor shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required. Permits are transferable and assignable upon written notice to the city secretary's office that the transferee or assignee has posted all required security pursuant to this article. Any transferee or assignee shall be bound by all requirements of the permit and this article.

(h) In the city, the physical construction of public infrastructure, excluding agency infrastructure, in new developments is the responsibility of the developer of the land. Ownership of that infrastructure remains with the developer of the land until accepted by the city. Any agency or public infrastructure contractor performing work on infrastructure which is within a public right-of-way, but prior to acceptance by the city, shall obtain a permit from the city and permission from the owner of the infrastructure in the public right-of-way. The agency shall be financially responsible to the owner of the infrastructure to carry out all remedial work necessary to receive acceptance by the city of that infrastructure. This financial obligation shall apply only to the work in the public right-of-way done by the agency or public infrastructure contractor. The city will not accept for dedication public rights-of-way, or other property where work performed is not in accordance with applicable city specifications.

(i) Any agency or public infrastructure contractor found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted.

(j) The city may institute all appropriate legal action to prohibit any agency or public infrastructure contractor from knowingly using the public rights-of-way unless the agency or public infrastructure contractor has complied with the terms of this article.

Sec. 1-16. Permit application; permit contents.

(a) General.

(1) No person, agency, or public infrastructure contractor shall install any facilities or other encroachment or make a pavement cut or excavate in a public right-of-way without first obtaining a permit from the city engineer, except in an emergency.

(2) Franchised agencies and agencies that are certificated telecommunications providers have prior authorization to do work in public rights-of-way. However, an agency's use of the public rights-of-way is subject to and must occur in accordance with State of Texas laws and city ordinances, policies, standards and procedures. Said use is non-exclusive and does not establish priority for use over other franchise holders, permit holders, or the city. A permit issued by the City of Lavon is required for all work done in the public rights-of-way.

(3) Each application for a permit shall be submitted using the required form which may be obtained from the city secretary's office. The agency or public infrastructure contractor requesting a permit shall provide the city engineer with documentation in the format specified by the city secretary's office.

(4) New residential service connections do not require a permit under this article.

(a) Maintenance or replacement of existing service connections that requires excavation will require a permit under this article.

(5) The city engineer or other designated city authority shall state on the permit the activity for which the permit is issued and any restrictions or requirements that have been placed upon the permit.

(6) All construction and installation in the public rights-of-way shall be in accordance with the permit issued for the facilities. The city engineer or other designated city authority shall be provided access to the work and to such further information as he may reasonably require to ensure compliance with the permit.

(7) A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the city engineer or other designated city authority at all times when construction or installation work is occurring.

(8) The agency or public infrastructure contractor shall update any new information on permit applications within ten (10) days after any change occurs.

(9) Joint applications. Agencies or public infrastructure contractors may apply jointly for permits to work in public rights-of-way at the same time and place.

(b) Types of permits:

(1) Standard permits.

a. A standard permit is required whenever a cut or excavation is made in a public right-of-way.

b. Application for a standard permit shall be made no less than two (2) City of Lavon working days prior to the date of the proposed activity. If the proposed cut or excavation is to be made in the public rights-of-way dedicated to the State of Texas, a city permit is required in addition to any and all permits required by the state. A city permit is required although specific authority has been granted by the city secretary's office to cut a paved street, curb or alley as a part of a new construction project.

(2) Permits issued under emergency conditions. Any agency or public infrastructure contractor maintaining facilities in the public rights-of-way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. The agency or public infrastructure contractor doing the work shall notify the city secretary's office no later than the next business day by telephone, fax, or e-mail when an emergency permit is required. A permit application must be submitted no later than the next business day after the work is commenced.

(3) Maintenance permits.

a. A maintenance permit is allowed whenever work is being done in or on a major thoroughfare and no cut or excavation is required.

b. Application for a maintenance permit must be submitted no later than the City of Lavon business day prior to the date of the proposed maintenance work. Applications may be submitted in person or via fax or e-mail to the city secretary's office.

c. The requirements outlined for permits issued under emergency conditions in subsection (2) of this section apply to maintenance permits, as do the remaining requirements of this article.

(c) Denial, suspension, or revocation of a permit.

(1) Denial of a permit. A permit may be denied for any one (1) of the following reasons:

a. The proposed activity will substantially interfere with vehicular or pedestrian traffic and no procedures, or procedures which are inconsistent with this article, have been implemented to minimize the interference.

b. The proposed construction will substantially interfere with another activity for which a permit has been issued, or will conflict or interfere with existing facilities already in the public right-of-way.

c. The proposed barricading, channelizing, signing, warning or other traffic control procedures or equipment do not comply with the requirements of the Texas Manual on Uniform Traffic Control Devices.

d. The activity or the manner in which it is to be performed will violate a city ordinance or regulation or a state or federal statute or regulation.

e. The agency or public infrastructure contractor:

1. Does not have liability insurance as required by section 1-18;

2. Has consistently failed to perform in accordance with the requirements of this article;

3. Has failed to furnish all of the information required by this article or, except for good cause shown, to file the applications within the time prescribed by this article;

4. Has misrepresented or falsified any information in the applications;

5. Has failed to comply with the performance warranty/guarantee as provided in this article;

6. Has outstanding debts to the city; or

7. Is not in compliance with applicable requirements of an existing permit issued under this article.

f. The agency or public infrastructure contractor requests to cut a city-maintained street that can be crossed by jacking, boring or tunneling.

g. There is a lack of available space.

(2) Suspension or revocation of a permit. The city engineer or other designated city authority may suspend by stop work order or revoke any or all permits granted to allow work in the public rights-of-way on the same grounds on which a permit may be denied under subsection (c) or for the following reasons and subject to the procedural guidelines noted in this article and any agreement that applies to the agency or public infrastructure contractor using the public rights-of-way, as well as any limitations imposed by federal or state law:

a. Failing to comply with an order of the city engineer;

b. The recognition that a permit was issued in error;

c. Failing to comply with restrictions or requirements placed on the permit by the city engineer; or

d. Violating any provision of this article.

(3) Automatic revocation of a permit. If no work has begun on a permitted project within thirty (30) calendar days of issuance of the permit, the permit shall be null and void, and a new permit shall be required.

(4) Extension of a permit. An extension of up to sixty (60) days to a permit may be granted if requested by the agency or public infrastructure contractor in writing to the city secretary's office. Such a request must be made before the permit expires. If no call for the cancellation of a permit or for an inspection is received within the sixty (60) day extension period, the permit shall be null and void, and a new permit shall be required.

(5) The city engineer or other designated city authority shall provide written notice of a denial, suspension or revocation to the agency or public infrastructure contractor. Construction that is suspended may not resume until the city engineer or other designated city authority determines that

the agency or public infrastructure contractor has corrected the violation, noncompliance, or hazard that caused the suspension. A permit that has been denied or revoked may be issued or reinstated by the city engineer or other designated city authority if determined that:

- a. The agency or public infrastructure contractor has corrected the violation, noncompliance, or hazard that caused the revocation or denial; and
- b. The health or safety of the public is not jeopardized by reinstating or issuing the permit.

(6) An agency or public infrastructure contractor may appeal a permit denial, suspension, or revocation in accordance with the provisions of section 1-17 of this article.

(7) Any variance from the requirements of this article must be approved in advance by the city engineer. The city engineer may grant a variance only if an extreme hardship exists and the public health, safety, welfare, and convenience is not adversely affected by granting the variance. The city engineer may not approve any variance that would give a competitive advantage to one (1) agency over another agency providing the same or similar service. The city engineer may not grant a variance from the indemnity requirements of section 1-20.

Sec. 1-17. Appeals.

(a) Applicability. Appeals may be filed pursuant to this section for decisions of the city related to the denial, suspension, or revocation of a permit. However, the appeal process provided by this section shall not be available for criminal violations of this article.

(b) Appeal to Mayor. A permittee may appeal decisions referred to in subsection (a) above by filing a written appeal with the Mayor within seven (7) working days of receipt of denial, suspension, or revocation of the permit. An appeal filed pursuant to this section shall specifically state the basis for the aggrieved party's challenge to the city's authority under this article.

(c) Issuance of decision by Mayor. Decisions of the Mayor shall be issued within five (5) working days of receipt of the written appeal. Decisions of the Mayor shall be final.

Sec. 1-18. Insurance requirements.

(a) Agencies. Each Agency applying for a permit shall obtain, maintain, and provide proof of the each of the following types of insurance and coverage limits.

These insurance policies shall be underwritten by insurance companies with an A.M. Best Rating of A VI or better.

(1) Commercial general liability on an occurrence form with minimum limits of five million dollars (\$5,000,000.00) per occurrence and ten million dollars (\$10,000,000.00) aggregate. This coverage shall include the following:

a. Products/completed operations to be maintained for one (1) year.

b. Personal and advertising injury.

c. Owners and contractors protective liability.

d. Explosion, collapse, or underground (XCU) hazards.

(2) Automobile liability coverage with a minimum policy limits of one million dollars (\$1,000,000.00) combined single limit. This coverage shall include all owned, hired and non-owned automobiles.

(3) Workers compensation and employers liability coverage. Statutory coverage limits for Coverage A and five hundred thousand dollars (\$500,000.00) Coverage B employers liability is required.

(b) Public infrastructure contractors. Each public infrastructure contractor applying for a permit shall obtain, maintain, and provide proof of insurance for the same types of insurance coverages outlined in subsection (a) above; however, the policy limits under the general liability insurance shall be one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. All other coverages provisions outlined in subsection (a) above shall apply.

(c) An agency or public infrastructure contractor that has registered and filed proof of insurance under section 1-13 of this article is not required to furnish separate proof of insurance under this section when obtaining a permit but must comply with all other requirements of this section.

(d) The preferred method for proof of insurance is the Acord form certificate of insurance.

(e) The city reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the Mayor determines that changes in statutory law, court decisions, or the claims history of the industry, the agency or public infrastructure contractor require adjustment of the coverage.

(f) The city will accept certificates of self-insurance issued by the State of Texas or letters written by the agency in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, certificates of self-insurance must be approved in advance by the risk manager for the city.

(g) The agency or public infrastructure contractor shall furnish, at no cost to the city, copies of certificates of insurance evidencing the coverage required by this section to the city. If the city requests a deletion, revision or modification, the agency shall exercise reasonable efforts to pay for and accomplish the change.

(h) The agency or public infrastructure contractor shall file and maintain proof of insurance with the city secretary's office. An insurance certificate obtained in compliance with this section is subject to city approval. The city may require the certificate to be changed to reflect changing liability limits. An agency or public infrastructure contractor shall immediately advise the city attorney of actual or potential litigation that may develop which may affect an existing carrier's obligation to defend and indemnify the city.

(i) Such insurance shall be kept in full force and effect during the period of time for which a permit shall be issued or the space occupied. Insurance coverage must be available on a "per project" basis.

(j) An insurer has no right of recovery against the city. The required insurance policies shall protect the agency or public infrastructure contractor and include the city as an additional insured. The insurance shall be primary coverage for losses covered by the policies.

(k) The policy clause "other insurance" shall not apply to the city.

(l) The agency or public infrastructure contractor shall pay premiums and assessments. A company that issues an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by an agency or public infrastructure contractor must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy.

(m) Each policy must include a provision that requires the insurance company to notify the city in writing at least thirty (30) days before canceling or failing to renew the policy or before reducing policy limits or coverages.

(n) The insurance requirements of this section do not apply to an agency operating facilities or performing construction pursuant to a valid existing franchise or license approved by the city.

Sec. 1-19. Performance warranty/guarantee.

(a) Any warranty made hereunder shall serve as security for the performance of work necessary to repair the public rights-of-way if the agency or public infrastructure contractor fails to make the necessary repairs or to complete the work under the permit.

(b) The agency or public infrastructure contractor, by acceptance of the permit, expressly warrants and guarantees complete performance of the work in a manner acceptable to the city and warrants and guarantees all work done for a period of one (1) year after the date of acceptance and agrees to maintain upon demand and to make all necessary repairs during the one-year period. This warranty shall include all repairs and actions needed as a result of:

- (1) Defects in workmanship;
- (2) Settling of fills or excavations;
- (3) Any unauthorized deviations from the approved plans and specifications;
- (4) Failure to barricade;
- (5) Failure to clean up during and after performance of the work
- (6) Restoration of improvements including, but not limited to, landscaping and irrigation; or
- (7) Any other violation of this article or the ordinances of the city.

(c) The one-year warranty period shall run from the date of the city's acceptance of the work which shall be the date of the letter of acceptance issued by the city to the agency or public infrastructure contractor. If repairs are required during the one-year warranty period, those repairs need only be warranted until the end of the initial one-year period starting with the date of acceptance. It is not necessary that a new one-year warranty be provided for subsequent repairs after probationary acceptance.

(d) At any time prior to completion of the one-year warranty period, the city may notify the agency or public infrastructure contractor of any needed repairs. Such repairs shall be completed within twenty-four (24) hours if the defects are determined by the city to be an imminent danger to the public health, safety, and welfare. Non-emergency repairs shall be completed within fifteen (15) calendar days after notice.

Sec. 1-20. Indemnification.

(a) To the extent authorized by law, each agency or public infrastructure contractor placing facilities in the public rights-of-way shall agree to promptly defend, indemnify, and hold the city harmless from and against all damages, costs, losses, or expenses (i) for the repair, replacement or restoration of city's property, equipment, materials, structures, and facilities that are damaged, destroyed, or found to be defective as a result of the agency's or public infrastructure contractor's acts or omissions, (ii) from and against any and all claims, demands, suits, causes of action, and judgments for (a) damage to or loss of the property of any agency or public infrastructure contractor (including, but not limited to, any person, its agents, officers, employees, and subcontractors, city's agents, officers, and employees, and third parties); and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the agents, officers, and employees of the person, person's subcontractors and city, and third parties), arising out of, incident to, concerning, or resulting from the negligent or willful act or omissions of the agency or public infrastructure contractor, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this article.

(b) An agency that is a certificated telecommunications provider as defined in Chapter 283 of the Texas Local Government Ordinance, as amended, shall provide to the city the indemnity provided in Section 283.057, Texas Local Government Ordinance, as amended.

(c) This indemnity provision shall not apply to any liability resulting from the negligence or willful misconduct of the city, its officers, employees, agents, contractors, or subcontractors.

(d) The provisions of this indemnity are solely for the benefit of the city and is not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Sec. 1-21. General rights-of-way use and construction.

(a) Minimal interference. Work in the public rights-of-way shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Agency's or public infrastructure contractor's facilities shall be constructed or maintained in such a manner as not to interfere with sewers, water pipes, or any other property of the city, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the rights-of-way by, or under, the city's authority. The agency's or public infrastructure contractor's facilities shall be located, erected, and maintained so as not to endanger or interfere with the lives of persons, or to interfere with improvements the city may deem proper to make or to unnecessarily hinder or obstruct the free use of the rights-of-way or other public property, and shall not interfere with the travel and use of public places by the

public during the construction, repair, operation, or removal thereof, and shall not obstruct or impede traffic.

(b) Responsibilities under permit; location of facilities.

(1) A permit does not relieve an agency or public infrastructure contractor of the responsibility to coordinate with other utilities and to protect existing facilities. An agency or public infrastructure contractor working in the right-of-way is responsible for obtaining line locates from all affected utilities or others with facilities in the right-of-way prior to any excavation. Use of the geographic information system or the plans of record does not satisfy this requirement.

(2) In performing location of facilities in the public rights-of-way in preparation for construction under a permit, agency or public infrastructure contractor shall compile all information obtained regarding its or any other facilities in the public rights-of-way related to a particular permit and shall make that information available to the city in a written and verified format acceptable to the city engineer.

(3) Protection of utilities. Before beginning excavation in any public right-of-way, an agency or public infrastructure contractor shall contact the Texas One-Call System or any other company operating under the One-Call Statute and, to the extent required by Chapter 251 of the Texas Utilities Ordinance, make inquiries of all ditch companies, utility companies, districts, local government departments, and all other agencies that might have facilities in the area of work to determine possible conflicts.

a. Field locations shall be marked prior to commencing work. The agency or public infrastructure contractor shall support and protect all pipes, conduits, poles, wires, or other apparatus that may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

(c) Underground construction and use of poles.

(1) When required by general ordinances, regulations or rules of the city or applicable state or federal law, agency's or public infrastructure contractor's new facilities shall be placed underground at agency's or public infrastructure contractor's expense. Placing facilities underground does not preclude the use of ground-mounted appurtenances. Related equipment, such as pedestals, must be placed in accordance with the city's applicable ordinance requirements and rules, including all visibility easement requirements. In areas where existing facilities are aerial, the

agency or public infrastructure contractor may install aerial facilities. Underground facilities are required along thoroughfares.

(2) The city will not require existing facilities to be placed underground.

(3) For above-ground facilities, the agency shall utilize existing poles wherever possible. Facilities shall be maintained in an appropriate manner.

(4) Should the city desire to place its own facilities in trenches or bores opened by the agency or public infrastructure contractor, the agency or public infrastructure contractor shall cooperate with the city in any construction by the agency or public infrastructure contractor that involves trenching or boring, provided that the city has first notified the agency or public infrastructure contractor in some manner that it is interested in sharing the trenches or bores in the area in which the agency's or public infrastructure contractor's construction is occurring. The agency or public infrastructure contractor shall allow the city to place its facilities in the agency's or public infrastructure contractor's trenches and bores. The city shall be responsible for maintaining its respective facilities buried in the agency's or public infrastructure contractor's trenches and bores under this paragraph.

(d) Joint trenching. The public rights-of-way have a finite capacity for containing facilities. The city engineer may require an agency or public infrastructure contractor to share trench space to minimize the disruption of vehicular or pedestrian traffic.

(1) All facilities shall meet any applicable local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between agency or public infrastructure contractor and the other joint user. Agency or public infrastructure contractor may, at its option, correct any attachment deficiencies and charge the joint user for its costs.

(e) Excavation safety. On construction projects in which excavation will exceed a depth of five (5) feet, the agency must have detailed plans and specifications for excavation safety systems. The term "excavation" includes trenches, structural or any construction that has earthen excavation subject to collapse. The excavation safety plan shall be designed in conformance with state law and Occupational Safety and Health Administration (OSHA) standards and regulations.

(f) Erosion control. The agency shall be responsible for storm water management erosion control that complies with city, state and federal guidelines.

(g) On-site requirements. Agencies and public infrastructure contractors subject to this article must have a minimum of one (1) English-speaking representative at

the site where work is being performed at all times. Additionally, each of agency's or public infrastructure contractor's vehicles shall bear a sign identifying the agency or public infrastructure contractor that owns the vehicles.

Sec. 1-22. No directional boring zones.

In the city, the public infrastructure must be maintained and protected by all agencies and public infrastructure contractors. The public health, safety and welfare is at risk when damages to water and sewer mains occur. To protect the water and sewer system, no person, agency, or public infrastructure contractor will be allowed to directionally bore longitudinally with water mains that are larger than twelve (12) inches and sewer mains that are twelve (12) inches or larger.

Sec. 1-23. Joint planning and construction; coordination of excavations.

(a) Excavations in city rights-of-way disrupt and interfere with the public use of the city streets and damage the pavement and landscaping. The purpose of this section is to reduce this disruption, interference and damage by promoting better coordination among agencies or public infrastructure contractors making excavations in public rights-of-way and between these agencies and public infrastructure contractors and the city. Better coordination will assist in minimizing the number of excavations being made wherever feasible and will ensure the excavations in city rights-of-way are, to the maximum extent possible, performed before, rather than after, the reconstruction of the streets by the city.

(b) Utility coordination meeting.

(1) The city will hold a utility coordination meeting as needed. The purpose of the meeting is for the city to inform agencies and public infrastructure contractors of proposed and current capital improvement projects in the City of Lavon and also for the agencies and public infrastructure contractors to inform each other and the city of current and future projects. Each agency and public infrastructure contractor shall make reasonable efforts to attend and participate in the meetings of the city, of which the agency or public infrastructure contractor will be made aware.

(2) Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, the agency or public infrastructure contractor shall work with other agencies and public infrastructure contractors so as to reduce as much as possible the number of right-of-way cuts within the city.

Sec. 1-24. Minimizing the impacts of work in the rights-of-way.

(a) Noise, dust, debris, hours of work. Each agency and public infrastructure contractor shall conduct work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the agency or public infrastructure contractor shall take appropriate measures to reduce noise, dust, and unsightly debris.

(b) Trash and construction materials.

(1) Each agency and public infrastructure contractor shall maintain the work site so that:

a. Trash and construction materials are contained so that they are not blown off of the construction site.

b. Trash is removed from a construction site often enough so that it does not become a health, fire, or safety hazard.

c. Trash dumpsters and storage or construction trailers are not placed in the street without written approval of the Police Chief.

(2) Agency or public infrastructure contractor may only use approved trash haulers when working in the public rights-of-way.

(c) Deposit of dirt and material on roadways. Each agency and public infrastructure contractor shall eliminate the tracking of mud or debris upon any street or sidewalk. Equipment and trucks used during construction, excavation, or work activity shall be cleaned of mud and debris prior to leaving any work site.

(d) Protection of trees and landscaping. Each agency and public infrastructure contractor shall protect trees, landscape, and landscape features as required by the city and shall be responsible for supplemental maintenance and watering during construction and until restoration is complete and in accordance with the performance warranty made the agency or public infrastructure contractor under this article. All protective measures shall be provided at the expense of the agency or public infrastructure contractor.

(e) Protection of paved surfaces from equipment damage. Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles with grousers are not permitted on paved surface unless specific precautions are taken to protect the surface. Agency or public infrastructure contractor shall be responsible for any damage caused to the pavement by the operation of such equipment and shall repair such surfaces. Failure to do so will result in the use of the agency's or public infrastructure

contractor's performance warranty/guarantee by the city to repair any damage, and, possibly, the requirement of additional warrantee(s).

(f) Protection of property. Each agency and public infrastructure contractor shall protect from injury any public rights-of-way and adjoining property by providing adequate support and taking other necessary measures. Agency or public infrastructure contractor shall, at its own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the work and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public rights-of-way.

(g) Clean-up. As the work progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the agency or public infrastructure contractor. Agency or public infrastructure contractor shall restore any disturbed area to its original condition.

(h) Vehicle parking. Each agency and public infrastructure contractor shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a work site is not impacted.

(i) Walkways. Each agency and public infrastructure contractor shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk.

Sec. 1-25. Facility locations.

(a) Guy wires, anchors, pedestals, boxes, and other above ground facilities shall not encroach within a sidewalk area, including a vertical clearance of seven and one-half (7.5) feet above the sidewalk. No above-ground facilities shall be located closer than three (3) feet from the back of street curbs or edge of alley or within the sight visibility area.

(b) Above-ground facilities such as pedestals, switching boxes and similar facilities shall be located no less than three (3) feet from the edge of an alley or the back of street curbs and such that they do not create a physical or visual barrier to vehicles leaving or entering roads, driveway or alleys. They shall also not be located in front of residential lots creating an unreasonable visual or aesthetic impairment for the property owner. Above-ground facilities located in public rights-of-way shall be no larger than six (6) feet wide by four (4) feet two (2) inches high by two (2) feet deep. In the event that an agency or public infrastructure contractor needs to install above-ground facilities that are larger than such size, such facilities shall be considered buildings and must be placed on private property and comply with all requirements of the City's Building Ordinance, including receipt of a building permit prior to installation, unless otherwise approved by the city engineer.

(c) Temporary utilities may be located in non-standard locations. subsection (a) above shall govern, if applicable.

Sec. 1-26. Traffic control.

(a) No person, agency, or public infrastructure contractor may close a public street without first obtaining a permit from the Chief of Police. An application for a maintenance permit and a traffic control plan shall be submitted to the Chief of Police no less than seven (7) working days prior to the date of the proposed closure unless an emergency exists, in which case immediate notice must be given to the Chief of Police. If a proposed construction project is to be made in the public right-of-way dedicated to the State of Texas, a city permit shall be required in addition to any and all permits required by the state.

(b) When it is necessary to obstruct traffic, an application for a maintenance permit and a traffic control plan shall be submitted to the Chief of Police prior to starting construction. No permit will be issued until the traffic control plan is approved by the Chief of Police. No agency or public infrastructure contractor shall block access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless the agency or public infrastructure contractor provides the city with written verification of written notice delivered to the owner or occupant of the facility, equipment, or property at least forty-eight (48) hours in advance.

(c) When necessary for public safety, the agency or public infrastructure contractor shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the Chief of Police.

(d) Unless approved by the city, the agency or public infrastructure contractor shall not impede rush hour traffic on thoroughfares during the morning or evening rush hours. No traffic lane may be closed to traffic during the hours of 6:00 a.m. to 9:00 a.m. or 4:00 p.m. to 6:00 p.m., Monday through Friday, without the written approval of the city.

(e) Lane closures on major thoroughfares will be limited to no more than two (2) hours at any time outside of the morning and evening rush hours unless approved by the Chief of Police.

(f) Traffic control devices and barricades must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices and barricades are to be supplied by the agency or public infrastructure contractor. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights.

- (g) The city engineer may refuse to issue a permit if proposed construction activity will substantially interfere with vehicular traffic flow on major thoroughfares or is inconsistent with procedures of this article.

Sec. 1-27. Requirements for street cuts and repairs.

- (a) The agency or public infrastructure contractor shall be responsible for maintaining all street cuts in such a manner as to avoid a hazard to vehicular and pedestrian traffic until permanently repaired.

- (1) When emergency repairs are deemed necessary by the city engineer or other designated city authority to correct a situation that is hazardous to the public, the agency or public infrastructure contractor that is responsible for the cut shall be notified immediately. If the agency or public infrastructure contractor does not provide an acceptable schedule for making the emergency repair within eight (8) hours of being notified, the repairs will be performed by the city, and the agency or public infrastructure contractor will be billed for the repairs necessary to complete the project, including clean up.

- (2) Agency or public infrastructure contractor will be required to maintain the interim cut repair until they have completed final repairs.

- (3) Traffic bearing steel plates shall be utilized on all concrete paving cuts until required curing is accomplished. Asphalt shall be used to provide smooth ramps at the edges. Plates or asphalt may be used for temporary repairs.

- (b) All damage caused directly or indirectly to the street surface or subsurface outside the pavement cut area shall be regarded as a part of the street cut. These areas, as established by the city inspector, will be included in the total area repaired.

- (c) The agency or public infrastructure contractor shall notify the city secretary immediately of any damage to other utilities, either city or privately-owned.

- (d) Construction methods:

- (1) Permanent repairs of utility cuts in existing streets, alleys or easements will be completed by the agency or public infrastructure contractor within fourteen (14) calendar days of beginning the work. If an agency or public infrastructure contractor does not believe that it will be able to meet this schedule, the agency or public infrastructure contractor must contact the city engineer or other designated city authority concerning an alternative schedule for the repairs. Any alternative schedule must be approved by the city engineer or other designated city

authority prior to the beginning of the work. The agency or public infrastructure contractor will be responsible for any maintenance of the repair for a period of one (1) year after the repair is complete. Failure to do so will result in the use of the agency's or public infrastructure contractor's performance warranty/guarantee by the city to repair any damage, and, possibly, the requirement of additional warrantee(s) and/or the denial of future permits.

(3) Steel plates left in the right-of-way after repairs are completed will be removed by the city and become the city's property.

(4) Excavation in street or alley pavements should begin with an air-hammer shovel, a pavement breaker or other equipment that will not damage the pavement outside an approximate width of the ditch prior to beginning trenching operations. All street excavations will be saw cut before the street is repaired. Full depth saw cuts are required.

(5) If the excavation is to pass under where the curb is installed without dummy/expansion joint, the agency or public infrastructure contractor may saw cut a smooth line one (1) foot beyond each side of the disturbed base. If no damage to curb is evident to the city inspector, the agency or public infrastructure contractor may pump concrete under curb and gutter on cuts less than one (1) foot wide. The city inspector will make this determination prior to concrete being placed under existing curb and gutter.

(e) Notification of homeowners' and homeowner associations. When an agency or public infrastructure contractor is installing more than five hundred (500) linear feet of underground facilities, the agency or public infrastructure contractor shall notify in writing all individual homeowners along the route. Door hangers are an acceptable form of written notification. This notification shall give information about the project, not limited to the proposed location of the facilities, the time length for construction and a contact person to report any problems.

Sec. 1-28. Standards for repair and restoration.

(a) Agency or public infrastructure contractor responsibility. The agency or public infrastructure contractor shall be fully responsible for the cost and actual performance of all work in the public rights-of-way. The agency or public infrastructure contractor shall do all work in conformance with any and all engineering regulations, construction specifications, and design standards adopted by the city. These standards shall apply to all work in the public rights-of-way unless otherwise indicated in the permit.

(b) All restoration shall result in a work site condition equal to or better than the condition in which the site existed prior to construction. Restoration must be

approved by the city engineer or other designated city authority. In addition to the regulations, specifications, and standards referred to in subsection (a), the following provisions shall apply to work in the public rights-of-way of the city:

- (1) Restoration must be to the reasonable satisfaction of the city engineer or other designated city authority and the property owner. The restoration shall include, but not be limited to:
 - a. Replacing all ground cover with the type of ground cover damaged during work or better by sodding, as directed by the city;
 - b. Installation of all manholes and handholes, as required;
 - c. Backfilling of all bore pits, potholes, trenches or any other holes which must be done within seven (7) days after excavation of the bore pits, potholes, trenches or other holes, unless other safety requirements are approved by the city engineer;
 - d. Leveling of all trenches and backhoe lines;
 - e. Restoration of excavation site to city specifications;
 - f. Restoration of all landscaping, trees, shrubs, ground cover, and sprinkler systems; and
 - g. Repairing and replacing existing erosion control devices that have been damaged or destroyed as a part of the work.
- (2) All locate flags shall be removed during the clean up process by the agency or public infrastructure contractor at the completion of the work.
- (3) Restoration must be made in a timely manner as agreed upon by the city engineer or other designated city authority and the agency or public infrastructure contractor. If restoration is not satisfactory and/or is not performed within the agreed upon timeframe, all work in progress, except that related to the problem, including all work previously permitted but not complete, may be halted and a hold may be placed on any permits not approved until all restoration is complete, or the city may complete the work and bill the agency or public infrastructure contractor for the repairs performed by the city.

Sec. 1-80. Construction and restoration standards for newly constructed or overlaid streets.

- (a) No agency or public infrastructure contractor shall cause an open trench excavation or potholing of facilities in the pavement of any public right-of-way

for a period of three (3) years from the completion of construction or resurfacing except in compliance with the provisions of this section.

(b) Criteria for approval. No permit for excavation in the right-of-way of new streets shall be approved unless the city engineer finds that all of the following criteria have been met:

(1) Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.

(2) Alternative utility alignments that do not involve excavating the street or alley are found to be impracticable.

(3) The proposed excavation cannot reasonably be delayed after the three-year deferment period has lapsed.

(c) Exemptions for emergency operations. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Agencies or public infrastructure contractors with prior authorization from the city engineer or other designated city authority to perform emergency maintenance operations within the public rights-of-way shall be exempted from this section. Any agency or public infrastructure contractor commencing operations under this section shall submit detailed engineering plans, construction methods, and remediation plans no later than the next business day after initiating the emergency maintenance operation.

(d) Construction and restoration standards for newly constructed or overlaid streets and alleys. The streets shall be restored and repaired in accordance with design and construction standards adopted by the city and guaranteed in accordance with section 1-19.

Sec. 1-29. Relocation of facilities for public improvements.

(a) In the exercise of governmental functions, the city has first priority over all other uses of the public rights-of-way. The city reserves the right to lay sewer, water, and other pipelines or cables and conduits, and to do underground and overhead work, and attachments, restructuring, or changes in aerial facilities in, across, along, over, or under a public street, alley, or public rights-of-way occupied by an agency or public infrastructure contractor, and to change the curb, sidewalks, or the grade of streets.

(b) The agency or public infrastructure contractor must relocate its facilities at its own expense prior to the start of construction of a city project. Failure to comply with this provision shall subject the agency or public infrastructure contractor to the enforcement provisions contained herein.

- (c) A permit will be required when making facility adjustments in preparation for city projects.

Sec. 1-30. Abandonment and removal of facilities.

- (a) If a registration is not renewed, and subject to sixty (60) days notification to the agency, all facilities owned by the agency within the city will be deemed to have been abandoned and shall become the property of the city.
- (b) Any agency that intends to discontinue use of any facilities within the public rights-of-way shall notify the city engineer or other designated city authority in writing of the intent to discontinue use. Such notice shall describe the facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than thirty (30) days from the date such notice is submitted to the city engineer or other designated city authority. Upon receipt of notice of discontinuance of use, the city shall have a right of first refusal to acquire agency's facilities with the cost for such facilities to be negotiated by the city and the agency.

ARTICLE V. STREET AND THOROUGHFARE CLOSURES

Sec. 1-31. Offenses.

- (a) A person commits an offense under this division if he:
 - (1) Commences or holds a private closure without a permit issued by the director or with a permit that has expired or been revoked; or
 - (2) Fails to comply with any of the requirements of this division or other ordinances or laws of the city or the state.
- (b) A culpable mental state is not required for the commission of an offense under this division.

Sec. 1-32. Penalty.

A person violating a provision of this division is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).

Sec. 1-33. Permit required, application; petition.

All persons desiring a private residential street closure for the purpose of holding a block party shall file, not less than fourteen (14) days prior to the required

closure, with the Chief of Police, referred to in this division as "Chief," or his designee, an application for a street closure permit and petition provided by the city, containing but not limited to the following information:

- (1) Name, address, and phone number of person(s) requesting and whom shall be responsible for the block party;
- (2) Name and location of the residential street to be closed;
- (3) The date and time for the street closure; block parties must be held between the hours of 9:00 a.m. and 10:00 p.m.;
- (4) The petition, as furnished by the city, shall contain the signatures of seventy-five (75) percent of adult residents of the street to be closed indicating their consent to the proposed street closure. For purposes of computing the above percentage, each lot or property parcel shall have only one (1) vote.

Sec. 1-34. Issuance of permit.

Upon submission, validation, and approval of the application for a street closure permit and petition, the director shall issue a permit.

Sec. 1-35. Denial of permit, appeal.

The Chief of Police may deny a street closure permit if in his opinion the closure of the street would cause extreme disruption of the delivery of city services or extreme hardship to the citizens. If request for a permit is denied, the applicant(s) may appeal to the city council at the next regularly scheduled council meeting any such denial.

Sec. 1-36. Barricades.

The persons responsible for the block party shall furnish and place barricades at the designated location at the appropriate time.

Sec. 1-37. Revocation of permit.

Nothing in this division shall prevent the Chief of Police, or their designees from revoking a street closure permit at any time before or during the block party in the interest of public safety, health or welfare of the community as a whole.

ARTICLE II. PARADES

Sec. 1-38. Definitions.

As used in this article:

Applicant means a person who has filed a written application for a parade permit.

Chief of police means the chief of police of the City of Lavon, Texas, or his designated representative.

City means the City of Lavon, Texas.

Parade means any assembly, march, demonstration, procession or motorcade upon public thoroughfares within the city consisting of three (3) or more persons, animals, or vehicles (or any combination thereof) with an intent of attracting public attention that interferes with or has a tendency to interfere with the normal flow or regulation of traffic upon public thoroughfares.

Parade permit means written approval from the chief of police or his designated representative for a parade or procession.

Permittee means the person to whom a parade permit is granted pursuant to this article.

Person means any individual, assumed named entity, partnership, association, corporation or organization.

Sidewalk means that portion of a street between the curb lines or lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

Street means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Sec. 1-39. Permit required; exceptions.

(a) Required. No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the city.

(b) Exceptions. This article shall not apply to:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities, and will not interfere with the normal movement of traffic.

(3) A government agency acting within the scope of its function.

Sec. 1-40. Application for permit.

A person seeking issuance of a parade permit shall file an application with the Lavon Police Department on forms provided by the Lavon Police Department.

(1) Filing period. An application for a parade permit shall be filed with the Lavon Police Department not less than fifteen (15) days nor more than three hundred sixty five (365) days before the proposed parade date.

(2) Contents. The application for a parade permit shall set forth the following information:

- a. The name, address, and telephone number of the person seeking to conduct such parade.
- b. If the parade is to be held for or by an organization, the name, address, and telephone number of the headquarters of the organization, and the name and address of the authorized head(s) of such organization.
- c. If the parade is to be held by or on behalf of any person other than the applicant, the applicant shall file a notarized statement from that other person showing authority to make the application.
- d. The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct.
- e. The purpose of the parade.
- f. The date when the parade is to be conducted.
- g. The time when such parade will start and terminate.
- h. The location by streets of the proposed parade route, the initial starting point and the disbanding area for the parade. If the starting point and/or disbanding areas are located on private property, the applicant shall submit written permission for the holding of the activity from the owner of the property or his authorized representative.
- i. A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be used.

- j. The time at which units of the parade will arrive at the assembly area.
- k. The interval of space to be maintained between units in the parade.
- l. The approximate number of participants in the parade.
- m. Any sanitation facilities which may be needed to keep the parade route and assembly areas clean and free from debris.
- n. A description of any public facilities or equipment needed for the parade.
- o. Any other information which the chief of police shall find necessary under the standards for issuance, hereinafter set forth in section 1-41.

(3) Late applications. Where good cause is shown and subject to meeting the standards promulgated in section 1-41, the chief of police may consider any application filed after the deadline prescribed in subsection (1), above.

Sec. 1-41. Standards for issuance of permit.

A parade permit will be issued if, upon review of the application, the police chief finds that:

- (1) The parade will not substantially interrupt the safe and orderly movement of other traffic near its route.
- (2) The parade will not require the diversion of so great a number of police officers of the city to properly police the parade and the adjacent areas as to prevent normal police protection of the city.
- (3) The parade will not require the diversion of so great a number of fire protection or emergency medical services so as to prevent these services to portions of the city other than that to be occupied by the proposed line of march and adjacent areas.
- (4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with fire and police protection of, or emergency medical service to, areas near such parade and assembly area.

- (5) The parade will not interfere with the efficient response movement of firefighting equipment and services enroute to a fire.
- (6) The parade is scheduled to move from its point of origin to its point of termination without unreasonable delays enroute.
- (7) The conduct of the parade is not reasonably likely to cause injury to persons or property.
- (8) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas.
- (9) There are sufficient parking places near the site of the parade to accommodate the number of vehicles reasonably expected to be used in the parade.
- (10) The applicant has secured the police protection, if any, required under section 1-48.

Sec. 1-42. Contents of permit.

Each parade permit shall state the following information:

- (1) Starting and ending time.
- (2) Minimum and maximum speed.
- (3) A description of the parade route and any assembly area(s).
- (4) Maximum and minimum interval of space to be maintained between the units of the parade.
- (5) The portions of the streets to be traversed that may be occupied by the parade.
- (6) Such other information as the chief of police shall find necessary to the enforcement of this article.

Sec. 1-43. Duties of permittee.

A permittee shall comply with all permit directions and conditions and with all applicable laws and ordinances.

Sec. 1-44. Denial or revocation of permit.

- (a) The chief of police may deny or revoke a parade permit if:

- (1) The parade will conflict in time and location with another parade or other special event for which a permit has already been granted;
 - (2) The applicant fails to comply with or the parade will violate an ordinance of the city or any other applicable law;
 - (3) The applicant makes or permits the making of a false or misleading statement or omission of material fact on an application for a parade;
 - (4) The applicant has had a permit revoked within the preceding twelve (12) months;
 - (5) The applicant has previously failed to pay previous parade fees or police protection charges.
- (b) The chief of police shall have the authority to deny or revoke a parade permit issued hereunder for failure to meet the standards for issuance as set forth in section 1-41 above.

Sec. 1-45. Notice of rejection; appeal to city council.

The chief of police shall act upon an application for a parade permit within seven (7) days after the filing thereof. If the chief of police does not approve the application, he shall mail to applicant a notice of this action stating the reasons for the denial of permit within three (3) days after the date of the denial. Any person aggrieved shall have the right to appeal the denial of a parade permit to the city council. The council shall hear the appeal as soon as practicable and its decision shall be final.

Sec. 1-46. Alternative permit.

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the parade on a date, time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this article.

Sec. 1-47. Public conduct during parades.

Parking on parade route. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting a part of the parade route by posting signs

to such effect. It shall be unlawful for any person to park or leave unattended any vehicle in violation of the parking restrictions.

Sec. 1-48. Police protection; costs.

(a) The chief of police shall determine whether and to what extent additional police protection is reasonably necessary for the parade for traffic control and public safety. The chief of police shall base this decision on the size, location, duration, time and date of the event, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police protection for the public assembly is deemed necessary by the chief of police, he shall so inform the applicant for the permit. The applicant then shall have the duty to secure the police protection deemed necessary by the chief of police.

(b) In the event the chief of police determines, upon a review of the application, that a parade may require the special attention and involvement of city personnel or facilities, the chief of police shall so notify applicant. In such event, prior to the issuance of a permit for the parade, the applicant and the chief of police shall agree upon the cost of policing and cleaning and the closure of roads, and the applicant shall pay that amount to the city upon application. Prior to the issuance of a permit for a parade, the applicant shall agree in writing to pay any additional costs to the city within five (5) days of the date upon which the city informs the applicant of the amount of such additional costs.

Sec. 1-49. Prohibitions.

(a) It shall be unlawful for any person to stage, present, or conduct any parade without first having obtained a permit as herein provided.

(b) It shall be unlawful for any person to participate in a parade for which the person knows a permit has not been granted.

(c) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly licensed parade to knowingly fail to comply with any condition of the permit.

(d) It shall be unlawful for any person to ride, drive, or cause to be ridden or driven any animal or any animal-drawn vehicle upon any public street, unless specifically authorized by the permit.

Sec. 1-50. Penalty.

Any person, as that term is defined in this Ordinance, who violates any of the provisions of this article shall be guilty of a misdemeanor and upon conviction in the municipal court shall be subject to a fine not to exceed one thousand dollars (\$500.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense. A violation of any section or subsection shall constitute and be deemed a separate offense from a violation of another section or subsection, whether or not said violations occurred during the same incident.

Sec. 1-51. Fees.

Fees for any permit as enumerated in this ordinance shall be set by executive order of the Mayor and shall be effective 30 days after posting in the city secretary's office.

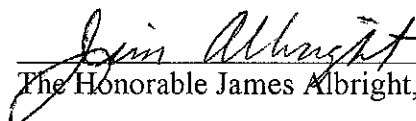
Sec. 1-52 Severability.

It is hereby declared by the City Council of the City of Lavon that if any of the sections, paragraphs, sentences, clauses or phrases of this ordinance shall be declared unconstitutional or otherwise illegal by the valid judgement or decree of any court of competent jurisdiction, such event shall not effect any remaining the sections, paragraphs, sentences, clauses or phrases of this ordinance.

Sec. 1-53. Effective Date

This ordinance shall be in full force and effect from and after its passage and publication and it is so ordained.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
LAVON, COLLIN COUNTY, TEXAS ON THIS 3 DAY OF January, 2008**


The Honorable James Albright, Mayor

Attest:


Chris Wess, City Secretary

