
CITY OF LAREDO ORDINANCE NO. 2022-O-212

PUBLIC HEARING AND DISCUSSION ON AMENDING CHAPTER 28, ARTICLE IX PUBLIC RIGHT-OF-WAY MANAGEMENT, SECTIONS 28-164 THROUGH 28-239; IT IS DESIRABLE TO CLARIFY EXISTING REGULATIONS THAT WILL PROVIDE GREATER CONTROL OVER THE CITY OF LAREDO PUBLIC RIGHT-OF-WAY; CLARIFICATION OF REGULATIONS FOR WORK IN CITY OF LAREDO PUBLIC RIGHT OF WAY TO PREVENT / MINIMIZE DAMAGES, TO ENSURE OVERALL OPTIMAL CONDITIONS OF THE CITY OF LAREDO PUBLIC RIGHT OF WAY; TO UPDATE PENALTY FEES FROM MINIMUM \$500.00 AND MAXIMUM \$2,000.00 TO MINIMUM \$500.00 AND MAXIMUM \$5,000.00 THEREFORE TO DETER WORK WITHOUT PERMIT; RESTRICTING THE TRANSFER OF ISSUED PERMITS FROM RIGHT OF WAY UTILITY USER TO OTHER RIGHT OF WAY UTILITY USER; RAISING THE LIABILITY INSURANCE AMOUNT FROM \$1,000,000.00 TO \$2,000,000.00 TO ENSURE SAFER WORK ENVIROMENT AND POTENTIAL DAMAGES; TO RAISE EXCAVATION BOND FROM \$10,000.00 TO \$25,000.00 TO UPDATE COST OF STREET REPAIRS TO ENSURE THAT DAMAGES BE COVERED BY ESCAVATION BOND; MANDATING PRE-INSPECTION, POST-INSPECTION AND FINAL INSPECTION PROCESSES TO MONITOR CONSTRUCTION ON THE CITY OF LAREDO PUBLIC RIGHT OF WAY; RE-DEFINED “RIGHT OF WAY USER” TO “RIGHT OF WAY UTILITY USER”, CATEGORIZE RIGHT OF WAY USERS BASED ON EXCAVATION DEPTH; UPDATE OVERTIME HOURLY INSPECTIONS FEES COST FROM \$40.00 TO \$150.00 MONDAY THROUGH FRIDAY AND FEE COST FROM \$75.00 TO \$250.00 SATURDAYS AND SUNDAYS TO HELP MAINTAIN THE SAFE CONDITION OF THE CITY OF LAREDO PUBLIC RIGHT OF WAY; UPDATING ANY TYPOS AND REPLACING DIRECTOR WITH BUILDING DEVELOPMENT SERVICES DEPARTMENT DIRECTOR.

WHEREAS, IT IS DESIRABLE TO CLARIFY EXISTING REGULATIONS THAT WILL PROVIDE GREATER CONTROL OVER THE CITY OF LAREDO PUBLIC RIGHT-OF-WAY; AND

WHEREAS, CLARIFICATION OF REGULATIONS FOR WORK IN CITY OF LAREDO PUBLIC RIGHT OF WAY TO PREVENT / MINIMIZE DAMAGES, TO ENSURE OVERALL OPTIMAL CONDITIONS OF THE CITY OF LAREDO PUBLIC RIGHT OF WAY; AND

WHEREAS, TO UPDATE PENALTY FEES FROM MINIMUM \$500 AND MAXIMUM \$2,000 TO MINIMUM 500 AND MAXIMUM \$5,000.00 THEREFORE TO DETER WORK WITHOUT PERMIT; AND

WHEREAS, RESTRICTING THE TRANSFER OF ISSUED PERMITS FROM RIGHT OF WAY UTILITY USER TO OTHER RIGHT OF WAY UTILITY USER; AND

WHEREAS, RAISING THE LIABILITY INSURANCE AMOUNT FROM \$1,000,000.00 TO \$2,000,000.00 TO ENSURE SAFER WORK ENVIROMENT AND POTENTIAL DAMAGES; AND

WHEREAS, TO RAISE EXCAVATION BOND FROM \$10,000.00 TO \$25,000.00 TO UPDATE COST OF STREET REPAIRS TO ENSURE THAT DAMAGES BE COVERED BY EXCAVATION BOND; AND

WHEREAS, MANDATING PRE-INSPECTION, POST-INSPECTION AND FINAL INSPECTION PROCESSES TO MONITOR CONSTRUCTION ON THE CITY OF LAREDO PUBLIC RIGHT OF WAY; AND

WHEREAS, RE-DEFINED “RIGHT OF WAY USER” TO “RIGHT OF WAY UTILITY USER”, CATEGORIZE RIGHT OF WAY USERS BASED ON EXCAVATION DEPTH; AND

WHEREAS, UPDATE OVERTIME HOURLY INSPECTIONS FEES COST FROM \$40.00 TO \$150.00 MONDAY THROUGH FRIDAY AND FEE COST FROM \$75.00 TO \$250.00 SATURDAYS AND SUNDAYS TO HELP MAINTAIN THE SAFE CONDITION OF THE CITY OF LAREDO PUBLIC RIGHT OF WAY; AND

WHEREAS, UPDATING ANY TYPOS AND REPLACING DIRECTOR WITH BUILDING DEVELOPMENT SERVICES DEPARTMENT DIRECTOR;

ARTICLE IX. PUBLIC RIGHT-OF-WAY MANAGEMENT

DIVISION 1. GENERAL PROVISIONS

Sec. 28-164. Administration.

The city manager is the principal city official responsible for the regulation of the same and ordinances related thereto. The city manager will delegate any and all duties hereunder to the building development services director.

- (1) The position of right-of-way manager in the building development services department is hereby established. The right-of-way manager in the building development services department shall have the duties and responsibilities as specified by the director.
- (2) The position of utility coordinator is hereby established. The utility coordinator shall supervise utility construction projects and utility inspections.

The director is authorized by the governing body with the written approval of the city manager to petition the public utility commission should a CTP be in violation of any of the terms of this article.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-165. Definitions.

The following definitions apply in this article of the City Code. The terms, phrases, words, abbreviations, and their derivations shall have the same meanings herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and words in the singular include the plural. The word "shall" is mandatory and not merely permissive.

Abandon and its derivatives means facilities no longer in service or physically disconnected from the operation facilities, or from any other facilities that are in use or that still carry service for a consecutive period of time in excess of two (2) years unless, within the aforesaid two-year period, the city receives written confirmation and reasonable evidence that the ROW user intends to use the facilities.

Above ground utility structure or AGUS means any utility structure that extends higher than the surrounding grade.

Administrative fee means the fee charged by the city to recover its costs incurred for right-of-way management including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way ROW permit applications; inspecting job sites and restoration improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and other costs the city may incur in implementing the provisions of this article.

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes mean: (a) uniform building, fire, electrical, plumbing, or mechanical codes as adopted by the city and adopted by a recognized national code organization; and (b) any local amendments to those codes to the extent not inconsistent with chapter 284.

Applicant means an owner, authorized agent of an owner, or a homestead owner, who applies for a ROW permit under these provisions of the City Code.

Area of influence means that area around a utility excavation where the pavement and subgrade are impacted by the excavation and is subject to more rapid deterioration due to the trench excavation.

Minor Impact project means lot development connecting utilities services from existing infrastructure onto lot.

Major Impact project means development along Right-of-Way affecting various lots by installing or maintaining mains and services.

Certified telecommunications provider or *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 of Texas or "PUCT" to offer local exchange telephone service as defined by V.T.C.A., Local Government Code § 283 or "the Act."

Chapter 284 means Chapter 284 of Subtitle A, Title 9 of the Texas Local Government Code.

City means the City of Laredo.

City manager shall mean city manager or his or her designee.

City's rights-of-way management ordinance means Chapter 28, Article IX, Divisions 1 to 11 of the City's Code of Ordinances.

Collocate and *collocation* mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Concealment or *camouflaged* means any wireless facility or pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the wireless facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for city advance approval under Chapter 284, Sec. 284.105 in historic or design districts. a concealed or camouflaged wireless facility or pole also includes any wireless facility or pole conforming to the surrounding area in which the wireless facility or pole is located and may include, but is not limited to hidden beneath a facade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.

Contractor means any public or private person or organization other than the city.

Day, unless stated otherwise, means a business day, which excludes Saturdays, Sundays and holidays recognized by federal or state government or the city.

Decorative pole means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

Department means the building development services department or a successor department that is responsible for management of the right-of-way and roadway infrastructure.

Design district means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Director means the director of the city building development services or his or her designee.

Disaster emergency or *disaster* or *emergency* means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city, state or federal governmental authorities.

Easement means and shall include any public easement or other compatible use created by dedication, or by other means, to the city for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

Emergency operations means those operations and repairs necessary to prevent damage or injury to the health or safety of the public or any person and the work necessary to address a service interruption. Upgrading of facilities, new service installation and neighborhood improvement projects are not emergency operations.

Excavation means an activity that removes or otherwise disturbs soil, pavement, driveways, curbs, or sidewalks in the right-of-way and does include irrigation activity of the 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 right-of-way and valves and related facilities and equipment used or useful for the provision of utility services.

FCC means The Federal Communications Commission.

Governing body means the mayor and the city council of the City of Laredo, Texas.

Governmental entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district, or other municipal corporation, quasimunicipal corporation or political subdivision of the State of Texas or of any other state of the United States and any agency or instrumentality of the State of Texas or of any other state of the United States or of the United States.

Highway right-of-way means right-of-way adjacent to a state or federal highway.

Historic district means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

Law means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

Local means within the corporate boundaries of the city.

Location means the city approved and lawfully permitted location for the network node.

Macro tower means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.

Mayor means the Mayor for the City.

Micro network node means a network node that is not larger in dimension than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and that has an exterior antenna, if any, not longer than eleven (11) inches.

Minor encroachment license means the legal document outlining the rights and obligation of a non-CTP owner of a wire telecommunication system to be in the rights-of-way of the city.

Municipal park means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

Municipally owned utility pole means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003 of the Texas Utilities Code, and located in a public right-of-way.

MUTCD means Manual of Uniform Traffic Control Devices.

Network node means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term includes: (a) equipment associated with wireless communications; (b) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; (c) coaxial or fiber-optic cable that is immediately adjacent

to and directly associated with a particular collocation; and (d) a distributed antenna system or DAS. The term does not include: (a) an electric generator; (b) a pole; or (c) a macro tower. Small cell shall be included as a type of "network node."

Network provider means: (a) a wireless service provider; or (b) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider: (1) network nodes; or (2) node support poles or any other structure that supports or is capable of supporting a network node. Provider has the same meaning as "network provider."

New street means the paved portion of the right-of-way that has been constructed reconstructed, or resurfaced with an asphalt overlay, hot in place recycling, full-length reclamation, reconstruction or other structural Street maintenance treatment. "New street" includes all concrete paved streets, streets constructed or structurally resurfaced during the preceding seven (7) years, for a collector or arterial street or during the preceding five (5) years for a residential street or alley.

Node support pole means a pole installed by a network provider for the primary purpose of supporting a network node.

ROW permit means a ROW permit issued under this article authorizing excavation in the right-of-way or a written authorization for the use of the public right-of-way or collocation on a service pole required from the city before a network provider may perform an action or initiate, continue, or complete a project over which the city has police power authority.

Permittee means any person, homestead owner (for the purpose of driveway and sidewalk permits of existing homes located on residential local streets with low traffic volumes only) or right-of-way user (including its authorized agents and representatives) to whom a ROW permit is issued to excavate a right-of-way.

Person means any person, company, partnership, agency or other public or private entity including its authorized agents and representatives) except the city.

Pole means a service pole, municipally owned utility pole, node support pole, or utility pole.

Private easement means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

Registration means the application process of an ROW user to use any portion of the right-of-way.

Repair means the temporary or permanent construction work necessary to make the right-of-way useable.

Repair area means that area around an excavation where the pavement and subgrade are impacted by an excavation.

Restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.

Resurfacing means any repaving; overlay; seal or reconstruction which creates a new pavement surface over the entire width of the street, excluding crack seals and localized base and pavement repairs.

Right-of-way or public right-of-way means the surface of, and the space above and below, any street, road, highway, freeway, lane, path, drainage way, channel, fee interest, public way or place, sidewalk, alley, boulevard, parkway, drive, or other easement now or hereafter held by the city or over which the city exercises any rights of management or control and shall include but not be limited to all easements now held, or hereafter held, by the city but shall specifically exclude private property and the airwaves above a public right-of-way with regard to wireless telecommunications.

Right-of-way Utility (ROW) user means a person, its successors and assignees, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain and repair facilities thereon, including, but not limited to, land owners and service providers.

Right-of-way Driveway (ROW) user means a person, its successors and assignees or a homestead owner (for the purpose of driveway and sidewalk permits of existing homes located on residential local streets with low traffic volumes only), that uses the right-of-way for purposes of work, excavation, or to install, construct, maintain and repair driveway and sidewalks

Routine service operation means a work activity that makes no material change to the facilities and does not disrupt traffic.

Service means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way including but not limited to gas, telephone, cable television, internet services, open video systems, alarm systems, steam, electric delivery, water, telegraph, data transmission, petroleum pipelines or sanitary sewage.

Service pole means a pole, other than a municipally owned utility pole, owned or operated by the city and located in a public right-of-way, including: (a) a pole that supports traffic control functions; (b) a structure for signage; (c) a pole that supports lighting, other than a decorative pole; and (d) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

Street means only the paved portion and sub-grade of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two (2) parallel edges of the paved roadway for vehicular travel where there is no curb. A "street" is generally part of but smaller in width than the width of the entire right-of-way, while a right-of-way may include sidewalks and utility easements, a "street" does not. A "street" does not include the curb or the sidewalk, if either are present at the time of a ROW permit application or if added later.

Supplementary application means an application made to excavate or obstruct more of the right-of-way than allowed in or to extend a ROW permit that has already been issued.

TMUTCD means the Texas Manual on Uniform Traffic Control Devices, latest edition.

Traffic signal means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transport facility means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

Underground requirement area means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

User means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

Utility means any privately or publicly owned entity which uses the public right-of-way to furnish to the public any general public service, including, without limitation, sanitary sewer, gas, electricity, water, telephone, petroleum products, telegraph, heat, steam or chilled water, together with the equipment, structures, and appurtenances belonging to such entity and located within and near the right-of-way. Poles are regulated herein only as specifically set forth in this article.

Utility pole means a pole that provides: (a) electric distribution with a voltage rating of not more than 34.5 kilovolts; or (b) services of a telecommunications provider, as defined by Section 51.002 of the Texas Utilities Code.

Utility structure means any structure, cabinet, or any other appurtenance other than a pole or device attached to a pole which is owned or used by a utility company, cable company, or telecommunications provider to provide service. The phrase does not include devices or structures used to control or direct pedestrian or vehicular traffic on an adjacent roadway or infrastructure that provides water used for fire suppression.

Above ground utility structure or *AGUS* means any utility structure that extends higher than the surrounding grade.

Video service has the same meaning as that set out in V.T.C.A., Utility Code § 66.002 or as may be amended.

Video service provider has the same meaning as that set out in V.T.C.A., Utility Code § 66.002 or as may be amended.

White lining means marking the excavation site with white washable marking paint or flags prior to requesting a utility locate in order to further identify the site.

Wire telecommunication system means a tangible closed facility for the transmission of voice, video or data services, including all instrumentalities, facilities and apparatus incidental to such transmission.

Wireless facilities mean "micro network nodes," "network nodes," and "node support poles" as defined in Chapter 284 of the Texas Local Government Code.

Wireless service means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

Wireless service provider means a person that provides wireless service to the public.

(Ord. No. 2009-O-045, 4-6-09; Ord. No. 2017-O-105 , § 1, 9-5-17; Ord. No. 2018-O-031 , § 1, 2-20-18)

Sec. 28-166. Utility planning and coordination committee.

- (a) Each utility shall name a utility coordinator who shall participate in the utility planning and coordination committee.
- (b) Unless barred by the law, annually on the first day of October, each utility shall prepare and submit to the Building Development Services Department a plan that shows all known plans of foreseeable excavations in the paved portion of the public rights-of-way anticipated to be done in the next three (3) years or a statement that no excavations are planned. The utility shall report to the Building Development Services Department promptly any changes in the plan as soon as those changes become reasonably foreseeable.
- (c) The city may disclose information contained in a three-year plan to another utility only on a need-to-know basis in order to facilitate coordination and avoid unnecessary excavation. If a utility clearly and appropriately identifies information contained in the plan as confidential, proprietary, a trade secret, or otherwise protected from disclosure, then to the maximum extent permissible under federal or homeland security and state, and local laws applicable to public records, the city shall not disclose that information to the public. If the city determines that information is not clearly or appropriately identified, the city shall follow the procedures in the Texas Public Information Act for requesting a Texas Attorney General's opinion regarding exemption of the information from disclosure.
- (d) A three-year repaving plan shall be prepared by the city engineering department showing all proposed repaving and reconstruction in the paved portion of the rights-of-way, revise and update the plan on an annual basis after receipt of the three-year plans from the utilities, and make the plan available for public inspection.

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- (e) The Building Development Services Department shall review and approve the three-year plans or plan available and identify conflicts and opportunities for coordination of excavations in the paved portion of the public rights-of-way.
 - (f) If utilities propose to do excavations in the same paved portion of the public rights-of-way within a three-year period, the city shall issue permits for the work in a manner that maximizes coordination and minimizes the total period of construction.
 - (g) A developer shall provide a development with underground facilities for utilities when required in accordance with article III of the Land Development Code. The developer shall execute all required agreements relating to the underground facilities, including easements, and provide proof to the city that the agreements have been executed.
 - (h) The city may require conduit for underground facilities in the paved portion of the public rights-of-way.
 - (i) The city or another utility may at its discretion install conduit and/or other facilities of its own when a street is cut by a utility. Such conduit or other facilities shall be installed at the city's or utility company's cost, but the city shall not pay any part of the cost of the street opening.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-167. Field utility coordination.

The ROW user shall notify the department at each of the following times during a project;

- (1) Forty-eight (48) hours before the start of construction;
- (2b) Upon completion of the initial backfill; and
- (3) Upon completion of the project.

The ROW user shall mark the site of the proposed excavation with white lining and/or flags prior to making a request for locates and actual excavation. White lining is not required for excavations more than sixty (60) feet long unless the excavation is located in pavers, cobblestone, pavements, sidewalks, or other public flatwork.

The ROW user shall make a request for a utility locate in accordance with the requirements of the Texas Underground Facility Damage Prevention and Safety Act, V.T.C.A., Utilities Code § 251.001 et seq. not more than fourteen (14) days and not less than forty-eight (48) hours prior to the commencement of the proposed excavation. Such request shall be made to the one-call system and the utility coordinator of the city. Such requests shall be made by telephone or facsimile and shall include the date, location, extent and reason for such proposed excavation.

The use of markers, stakes, poles, barricades or other devices shall be used as appropriate in such a way to avoid damage to adjoining property. The use of "non-washable" markers is prohibited.

The ROW user shall mark the proposed excavation site with paint and/or flags in colors established by the one-call system. The markings shall be placed a distance of not less than five (5) feet in all directions from the outside boundary of the site to be excavated.

All excavations shall commence within fourteen (14) days of the date of the utility locate. In the event that the excavator fails to commence work within fourteen (14) days of the utility locate marks are not visible at the time the excavation is scheduled to commence, the ROW user is required to request a new utility locate.

Compliance with the Texas Utilities Code is required at all times.

All barricades, plates, cones, traffic directional equipment, and all other traffic control devices owned by the ROW user and used on or near any excavation shall be clearly and visibly marked with the name of the permittee and/or ROW user for any project with duration of more than twenty-four (24) hours as applicable, at all times such

equipment is used on or near the right-of-way. An exception to the marking requirement may be made in the event the traffic control equipment is not owned by the permittee or ROW user.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-168. Notice.

Notice, for purposes of this article, shall be made to city via overnight courier (generally used carrier with tracing available), or hand delivery with signed receipt, facsimile to the department, or registered or certified United States mail return receipt required. Notice may also be given by e-mail if receipt of the e-mail is acknowledged by an e-mail from the department referencing the notice e-mail.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-169. Registration.

All ROW users, except a franchisee or licensee of the city that authorizes the service provider to use the public right-of-way and whose franchise or license shall serve in lieu of registration, must register with the city within thirty (30) days of effective date of this article. Any person who is not an existing ROW user prior to the effective date of this article and who wishes to become an ROW user must first register with the city. All ROW users shall report all changes in its registration information within thirty (30) days of such change. Except as set out above, no ROW user shall be authorized to utilize the right-of-way in any capacity or manner without registering and obtaining the necessary right-of-way ROW permit from the city.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-170. Registration information.

The information required for registration includes the following:

- (1) Identity and legal status of ROW user and names under which it will own and operate of any facilities on the right-of-way.
- (2) Name, address, telephone number and e-mail address of officer, agent or employee responsible for the accuracy of the registration information.
- (3) Name, address, telephone number, and e-mail address of the local representative of the ROW user who shall be available at all times to act on behalf of the ROW user in the event of an emergency.
- (4) If applicable, certification number issued by Public Utilities Commission of Texas (PUCT).
- (5) General description of services to be provided.
- (6) Insurance and bonding information.
- (7) Employee safety certification information.
- (8) ROW users shall provide all such other information as may be reasonably required by the City to complete the registration statement.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-171. Employee safety certification.

The ROW user operating facilities or constructing facilities in any public right-of-way is responsible for the safe movement of pedestrian and vehicular traffic through the construction area. The ROW user shall obtain traffic control training through a city approved training organization for a sufficient number of employees working within the right-of-way such that a trained employee is present at the job site during construction activities. The ROW user shall meet all requirements for barricading and traffic control as specified in the TMUTCD. Alternative training programs may be submitted to the Building Development Services Department for city approval, such as in-house safety training that complies with TMUTCD requirements. Only those individuals who are qualified by means of adequate training in safe traffic control practices and have a basic understanding of the principles established by applicable standards and regulations, including those in TMUTCD, shall place and maintain the traffic control devices in the construction area. Training records shall be maintained current by ROW user at all times. Upon request of the Building Development Services Department, the ROW user shall make such records available within a reasonable time.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-172. For utility planning and coordination guide.

Please see utility planning and coordination guide as adopted by ordinance 2005-O-022.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-173. Reporting obligations.

All ROW users except a franchisee shall provide on demand, proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any governmental entity, including, but not limited to, the city, state or federal government, including a description of the ROW user's intended use of the right-of-way, information sufficient to determine whether the ROW user is subject to franchising or licensing by the city, and information to determine whether the ROW user has applied for and received any certificate of authority required by the PUC. The information provided shall be sufficient to determine that the ROW user has applied for and received any ROW permit or other approvals required by the FCC. ROW users shall provide all such other information as may be reasonably required by the city to complete the registration statement.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-174. ROW permit required.

It is unlawful for any person, its agents, servants, employees or a homestead owner (for the purpose of driveway and sidewalk permits of existing homes located on residential local streets with low traffic volumes only) to dig, plow, blast, make cuts, openings, bore, excavate or use the right-of-way for any purpose without first having made application and obtained a permit. It is unlawful for any person, its agents, servants, employees or a homestead owner (for the purpose of driveway and sidewalk permits of existing homes located on residential local streets with low traffic volumes only) to make or cause to be made any excavation in or under the surface of any right-of-way for the installation, repair or removal of any facilities or for any other purpose without first obtaining from the Building Development Services Department a ROW permit in compliance with this chapter. The ROW permit shall be issued to a registered Right-of-Way Contractor (company) working on the Right-of-Way. No ROW permit can be transferred to another company.

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- (1) Before issuing a permit, the Building Development Services Department shall have been provided a written application on a form furnished by the Building Development Services Department setting forth the name and residence or business address of the applicant, the location and approximate area of the excavation, including its approximate length and width, and, if the excavation is in a street; whether it is parallel or transverse to the direction of the travel lanes, and the purpose of the excavation. The application form shall include plans prepared in accordance with City of Laredo Standard Technical Specifications Manual. In accordance with V.T.C.A., Occupations Code § 1001.061, plans submitted by a CTP are not required to be certified by a professional engineer.
 - (2) At the time of the ROW permit is issued the applicant shall pay a non-refundable application fee in an amount as provided for in this chapter, except franchise or access fee payee of the city shall be exempt from the payment of such application fee. Homestead owners (for the purpose of driveway and sidewalk permits of existing homes located on residential local streets with low traffic volumes only) shall provide a legal document to hold the city harmless from accidents, death or any incident thereto.
 - (3) The proposed location, depth and other characteristics of facilities for which the ROW permit is issued shall be subject to approval of the Building Development Services Department, and all backfilling, compaction and pavement restoration performed for any excavation shall comply with the requirements of article.
 - (4) No fee or requirement authorized or imposed pursuant to this article shall be construed to affect or alter in any way obligation of public and private utilities with facilities installed in any right-of-way to relocate the facilities at no cost to the city, subject to state law, if applicable, in the event that relocation is required by the city to accommodate a proper governmental use of the right-of-way.
 - (5) Combinations of permits shall be permitted at the discretion of the Building Development Services Department. Fees shall be assessed based on the excavations permitted.
 - (6) Any work to be performed within the state right-of-way shall secure a ROW permit from the Texas Department of Transportation. A copy of the permit, if applicable, shall be provided to the city. Otherwise, all inspections are subject to joint inspections by the Texas Department of Transportation and the city.
 - (7) A ROW permit is not required under this section if the activity in the public right-of-way consists exclusively of the connection of real property to a retail utility service or operation and maintenance of facilities, or provided such work does not involve making a pavement cut or excavation in the public right-of-way. However proper traffic control if applicable must be installed.

(Ord. No. 2009-O-045, 4-6-09; Ord. No. 2018-O-031 , § 2, 2-20-18)

Sec. 28-175. Excavation ROW permit application.

Application for a ROW permit shall be addressed to the Building Development Services Department and made on a form furnished for that purpose, stating the extent, dimensions, character and purpose of the cut or excavation to be made, the location, by street and number if possible where the work is to be done, and the time in which it is to be completed. The application form shall be accompanied by maps of the existing owned facilities in the area of applicant to the extent available, and the location of the proposed facilities, methodology of construction; proposed start and completion dates.

- (1) *Joint applications.* Applicants may apply jointly for permits to excavate the right-of-way at the same time and place. Applicants who apply jointly for a right-of-way ROW permit may share in the payment of the ROW permit fee. Applicants must agree among themselves as to the portion each shall pay. The city will recognize only one (1) point of contact.

(2) *Supplementary applications.* A ROW permit shall only be valid for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than that which is specified in the ROW permit must be excavated must:

- a. Make application for a ROW permit extension and pay any additional fees required thereby; and
- b. Receive a new right-of-way ROW permit or ROW permit extension.

Permits will be issued or denied-(15) fifteen working days of application. Unless granted for a longer period, an excavation ROW permit shall be valid for sixty (60) days and for the dates specified in the permit. The applicant may request the ROW permit be valid for such longer period as may be necessary in the circumstances, in advance, as part of the application. City may approve or deny the application for such extended ROW permit period. No permittee may commence work before the ROW permit start date or except as provided herein, may continue working after the end date. If a permittee does not complete the work by the ROW permit end date, the permittee must apply for and may receive a new right-of-way ROW permit or an extension for additional time. This supplementary application must be submitted to the city prior to the ROW permit end date. If ROW permit is allowed to expire, ROW user shall procure new ROW permit paying the applicable fee, before proceeding with any work. No ROW permit is transferable. A ROW permit shall be void unless the excavation to be made is commenced within time stated on permit.

An extended ROW permit may be requested, and shall be issued within two (2) days of application upon a showing of good cause.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-176. Excavation to be under supervision of the Building Development Services Department.

Any ROW user engaged in making or backfilling any excavation in any right-of-way shall at all times while such work is in progress keep at the job location the permit, or a copy thereof, and shall, on demand, exhibit the ROW permit to the Building Development Services Department, right-of-way manager or any police officer. At all time while the work is in progress the ROW user shall also maintain at the job location, a sign, barricade, or other device bearing the ROW user's name.

The ROW user shall protect from damage utility conduits, sewer conduits, water conduits, lawns, shrubbery, trees, fences, structures, or other property at, near or encountered in his work.

All excavations and other construction in the streets shall be conducted so as to interfere as little as practicable with the use of rights-of-way and with the use of private property, in accordance with any lawful and reasonable direction given by or under the authority of the governing body of the city under the policy and regulatory powers of the city necessary to provide for public convenience. The ROW user shall reasonably protect from damage utility facilities, sewer facilities, water facilities, lawns, shrubbery, trees, fences, structures, or other property encountered in his work. The ROW user shall not trespass upon private property. The ROW users shall determine the boundary between public right-of-way and private property to avoid encroachment if deemed necessary by Building Development Services Department.

All transmission and distribution structures, lines, equipment and facilities erected by an ROW user within the city shall be so located as to cause minimum interference with the proper use of the public right-of-way, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets.

The city reserves the right to lay and allow to be laid, electricity, sewer, gas, water and other pipe lines or cables and facilities, as well as drainage pipes and channels and Streets and to perform, and allow to be

performed, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the city, in across, along, over or under any grade of any street and to maintain all the city's facilities. In allowing such work to be performed by others, the city as manager of the public right-of-way shall not be liable to a ROW user for any damage caused by those persons or entities. Nothing herein shall relieve any third party from responsibility for damages caused to an ROW user by such third party. If the city requires an ROW user to adapt or conform its facilities, or in any way or manner to alter, relocate or change its property to enable any other corporation or person, except the city, to use, or to use with greater convenience, any right-of-way or public place, the ROW user shall not be required to make any such changes until such other corporation or person shall have undertaken, with solvent bond, to reimburse an ROW user for any loss and expense which will be caused by, or arise out of such removal, change, adaptation, alteration, conformance or relocation of an ROW user's facilities; provided, however, that the city shall never be liable for such reimbursement.

Except where otherwise provided by federal or state law, a utility shall install its facilities underground to the fullest extent possible if:

- (1) Electric and telephone utilities are already underground (for utilities other than electric and telephone);
- (2) The utility to which the utility's trunk and feeder lines are attached is underground; or
- (3) Where required by law.

If other utilities convert from aerial to underground cable so that electric and telephone utilities are underground, each utility shall relocate previously installed aerial cable underground in concert with the utility or utilities that are converting from aerial to underground.

All costs and expenses associated with the requirements of this section shall be borne by the utility, except where otherwise provided by law or by a cost allocation agreement among utilities.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-177. Additional excavation permit.

Subsequent to issuance of a permit, if it is necessary to excavate a larger area than originally estimated, the permittee shall at once pay to city the amount necessary to obtain the additional ROW permit necessary.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-178. Denial of permit.

A ROW permit may be denied or suspended for any of the following reasons:

- (1) Failure to provide proof of a surety bond or liability insurance acceptable to the city; or
- (2) Failure to secure a contractor's license or other required license; or
- (3) Failure to perform in accordance with the requirement of the city standard technical specification manual or in accordance with these provisions; or
- (4) The excavation would be in a new street and not otherwise permitted by this article; or
- (5) The proposed warning or other traffic control procedures or equipment do not comply with the requirements of the TMUTCD; [or]
- (6) The proposed activity would violate a city ordinance or state or federal statute; or
- (7) The ROW permit application contains false or misleading information; or

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- (8) The activity would cause a public health or safety hazard; or
 - (9) The ROW user is not authorized within the city; or
 - (10) The ROW user is in violation of this article relative to work in progress.

Denied permits may be appealed as set forth in this article.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-179. Appeal.

A right-of-way user that:

- (1) Has been denied registration;
- (2) Has been denied a permit;
- (3) Has had a ROW permit revoked; or
- (4) Believes that fees imposed are invalid,

may have the denial revocation, or fee imposition reviewed, upon written request as follows:

- (a) Appellant shall provide, within five (5) business days of denial, a written notice of appeal filed with the building development services Building Development Services Department. The notice must state the alternative available and routes explored, hardship encountered, cost comparison of other alternatives available and a statement of any other significant factors. The building development services Building Development Services Department shall provide a written decision within five (5) business days of receipt of the appeal. Failure to render a decision within five (5) business days shall constitute a denial.
- (b) If a further denial is given, the applicant may thereafter file a written notice of appeal with the city manager within five (5) business days. The notice must state the alternatives available and routes explored, hardship encountered, cost comparison of other alternatives and a statement of any other significant factors. The city manager shall provide a written decision within the ten (10) business days. Failure to render a decision within the ten (10) business days shall constitute a denial.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 2. TECHNICAL SPECIFICATIONS

Sec. 28-180. Standards.

Construction standards for all utilities and public improvements are in the City of Laredo Standards Technical Specification Manual.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-181. Commencement and completion.

After obtaining the ROW permit and prior to commencing the work, the permittee shall notify the right-of-way manager, and shall commence and complete all work within the time specified in the ROW permit unless an extension of time is granted by the Building Development Services Department. The ROW Contractor shall

schedule a on site pre-construction inspection with the Building Development Services Department prior to commencing work and final inspection upon completion of the excavation.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-182. Safe conduct of work.

Every permittee and ROW user shall prosecute its work diligently and in a good, safe, and workmanlike manner, and shall safeguard and protect the public using the street or right-of-way where the work is being performed from accidents or damage by placing barriers, lights and other sufficient safeguards around all cuts, openings, and excavations. All material, implements and tools stored upon the premises and used in connection with the excavation shall be stored in a safe and a nonhazardous manner.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-183. Emergency excavations.

Nothing in this article shall be construed to prevent any person operating and maintaining any pipe, conduit, or duct in or under any street, or right-of-way by virtue of any law, ordinance or permit, from making such excavation as may be necessary to restore service due to unforeseen outage, for compliance with law or for the preservation of life or property when the necessity arises, provided that the person making the excavation shall notify the right-of-way manager within twenty four (24) hours. Except as specifically provided otherwise in this article, excavations authorized by this section shall be subject to all fees and requirements of this article.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-184. Traffic control safety.

In the event of noncompliance with the TMUTCD, the ROW user shall be notified in writing of the violation, and all work must stop immediately until ROW user comes into compliance. In the event of continued noncompliance, the Building Development Services Department may revoke the permit, in addition to any other remedies available to the city.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-185. Restoration of excavation in paved surfaces.

The permittee shall complete pavement restoration of the excavated area within the approved time on the application on major arterial and collector streets and on residential streets after final backfill is completed and accepted by the Building Development Services Department. The permittee shall conduct the work with a minimum disturbance to existing utilities and shall coordinate all work in or near the existing utilities with the utility owners.

- (1) *Excavation in new streets.* There shall be no excavation in new streets without the prior approval of the Building Development Services Department or right-of-way manager. Any request for a ROW permit to excavate a new street shall include a description of the proposed work and proposed restoration of the area, as well as a statement as to why alternate procedures cannot or should not be used in lieu of excavating a new street. If excavation is approved by the Building Development Services Department or right-of-way manager, depending on site and area of street, will require re-pavement (re-pavement) of street.

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- (2) *Excavation in arterial streets in good condition.* A ROW permit holder shall perform jacking and boring operations in a manner that does not weaken or impair the right-of-way upon completion of restoration of the excavation.

Excavation in all streets in good condition regardless of age should not occur without prior approval of the Building Development Services Department or right-of-way manager.

Restoration of the excavated area of streets in good condition shall be in accordance with this article.

- (3) *Responsibility of excavated area maintenance.* A permittee or ROW user shall maintain their repairs in the right-of-way for a warranty period of one (1) year.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-186. Lawful use of right-of-way.

- (a) The use of the right-of-way in any manner which violates federal, state, or local laws, or city codes and regulations, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal and water and air quality, is prohibited. All permittees shall provide satisfactory evidence of compliance with the foregoing upon request of the city.
- (b) Permittee shall dispose of all material removed from the right-of-way and any waste created by permittee in compliance with all state, federal and local laws and requirements.
- (c) If a permittee discovers any contaminated, regulated, or hazardous materials in the right-of-way, permittee shall be responsible for environmental assessment, excavation, testing, transportation, and disposal of any such contaminated or regulated material in accordance with applicable law, or the permittee may elect to abandon the contaminated area of the right-of-way and reroute around the contaminated area. The permittee shall promptly notify the right-of-way manager or Building Development Services Department in writing of the condition.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-187. Tree trimming and graffiti abatement.

Permission is granted to a ROW user to trim trees upon and overhanging the public right-of-way, so as to prevent the branches of such trees from coming in contact with a ROW user's facilities. ROW user will coordinate its vegetation management activities within and/or adjacent to the public right-of-way with appropriate city departments including traffic safety and parks and leisure. All vegetation management activities affecting the public-right-of way shall be performed in accordance with federal and state mandates regulating vegetation management activities. The city shall report damage or vandalism to the ROW user's facilities as soon as practicable after city discovers or learns of such event. The ROW user shall make the necessary repairs or restoration, including cleaning of graffiti, within forty-eight (48) hours after the ROW user discovers or learns of any misuse, destruction, damage, or vandalism to its Facilities.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-188. Conformance with major thoroughfare plan.

A ROW user shall consult the city's major thoroughfare plan ("MTP") prior to the acquisition of any interest in real property in the city for the installation or relocation of service lines or other equipment or facilities along or adjacent to any street, right-of-way, thoroughfare, highway, or any proposed street, right-of-way, highway or thoroughfare to attempt to minimize any future conflict regarding the location of such facilities. All ROW users are

charged at all times with constructive notice of the MTP subsequent to the effective date of this article. The city shall have no liability for the value of or loss by an ROW user of any improvements constructed in the area shown in the MTP subsequent to the effective date of this article

Sec. 28-189. Rights in the event of abandonment.

In the event the city closes, vacates, abandons or conveys any right-of-way containing facilities of the ROW user, any such closure, vacation, abandonment or conveyance of land shall be subject to the rights of the ROW user.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-190. Supervision by city of location of poles and conduits.

All poles in the rights-of-way shall be of sound material and reasonably straight, and shall not interfere with the flow of water in any gutter or drain, and shall be placed at locations within the right-of-way as specified by applicable law so as not to unduly interfere with either vehicular or pedestrian travel. The location and route of all conduits, fiber, cables placement of poles, stubs, guys, anchors and utilities and facilities placed and constructed by an ROW user in the public right-of-way shall be subject to the reasonable and proper control, direction and approval of the Building Development Services Department provided however that row user's installation and configuration of its facilities in the public rights-of-way shall at all times comply with federal and state laws respecting such construction.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-191. Attachments to poles.

- (a) Nothing shall obligate or restrict an ROW user from exercising its right to enter into a pole attachment, pole usage, joint ownership or other wire space or facilities agreement with an owner of the pole or with other wire-using companies authorized to operate within the public right-of-way of the city.
- (b) An ROW user shall utilize existing poles, conduits, and other Facilities whenever reasonable and/or economically feasible. Utilities or facilities attached to poles in rights-of-way will provide digital electronic files of utilities or facilities placement in ROW.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-192. Temporary rearrangements of aerial wires.

The ROW user shall rearrange its aerial wires temporarily as necessary to ROW permit the moving of houses or other bulky structures. The requesting parties shall pay in advance the reasonable and necessary expense of such temporary rearrangements. The ROW user shall be given not less than five (5) days' advance notice to arrange for such temporary rearrangements, provided, however, the ROW user shall have no obligation to undertake such work until all federal and state permits and compliance requirements have been met. The ROW user shall remove its aerial wires in connection with the demolition of unsafe structures, including emergency or ordered demolitions, and invoice the appropriate parties for the cost of this work where applicable. Nothing in this section however shall be read to impose any financial burdens on the city for requesting the temporary rearrangement of aerial wires.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-193. Backfill of excavated area.

Open trenches may be temporarily backfilled for the convenience of the permittee or the public safety according to city standard technical specification manual. At least one (1) hour prior to beginning permanent backfill operations, the permittee shall notify the Building Development Services Department of the time the backfill will begin by calling an established single point of contact at the building developmental services department. A confirmation ID number will be issued to the permittee. Inspector must arrive within one (1) hour of agreed time; otherwise permanent backfill can commence.

All excess water and mud shall be removed from the trench prior to backfilling. Any backfill placed during a rainy period or at other times where excess water cannot be prevented from entering the trench will be considered temporary and shall be removed as soon as weather permits. All disturbed base material or any base that has been undermined shall be removed and discarded. The new roadway base material shall be according to the City of Laredo Technical Specification Manual.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-194. Restoration of pavement.

Unless otherwise specified in the permit, restoration of the asphalt pavement of any street, alley right-of-way or other public place shall be performed by the permittee or by the city, upon request by the permittee. Nothing in this section shall relieve the ROW user from the responsibility to maintain the excavation or installation in a safe condition until it is repaved by city or otherwise restored. In addition to all other applicable fees or charges, if the city performs the repaving of the ROW user shall pay for the repaving based on type of construction repair as per section 28-239.

- (1) No trench shall be opened in any street for the purpose of laying pipes, conduits or ducts more than three hundred (300) feet in advance of the pipe, conduit or ducts being placed in the trench, other than with the prior written consent of the Building Development Services Department.
- (2) All excavations shall comply with the city standard technical specification manual.
- (3) Any excavated pavement, debris and other rubble shall be removed, together with any surplus material, within one (1) working day from the time such material is placed upon the street. After backfilling is completed, and prior to repaving the cut, the ROW user shall remove all loose paving material and trim the edges of the excavation at the street surface to the satisfaction of the Building Development Services Department.
- (4) Whenever any caving occurs in the sidewalks of any excavation, the pavements above such caving shall be cut away, trench backfilled and pavement restored in accordance with the city standard technical specification manual. In no case shall any side or lateral tamping fill any void under a pavement.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-195. Excavation specifications.

All excavations shall be made in accordance with plans submitted with the ROW permit application and in accordance with specifications set forth in the city standard technical specification manual. All excavations shall be repaired in such a way so as not to become depressed, cracked, broken, or in any way fail during the one-year warranty period.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-196. Cleanup of right-of-way.

In every case and at all times, the work of removing from the right-of-way all obstructions, surplus materials, debris and waste matter of every description caused by and accumulated from the excavation shall be the responsibility of the ROW user. Streets shall be cleaned by use of a street sweeper, on big projects. The ROW user shall clean the surrounding area, as outlined above, within two (2) days upon completion and approval of all trench work and pavement restoration unless the Building Development Services Department has been given sufficient reason to grant an extension of time. Failure to leave work area clean will result in citation.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-197. Substandard repair of pavement or right-of-way.

In the event the pavement or the surface of the street or right-of-way in, over or near any excavation should become depressed, cracked, broken or fail in any way within one year (1) from the date of completion of the repair, the ROW user shall perform such additional restoration work to the reasonable satisfaction of the city, or pay the city for its reasonable cost to restore the street or right-of-way, provided the repair or initial construction has not been disturbed or undermined by another ROW user or through some other independent intervening event or condition beyond permittee's reasonable control. Nothing contained herein shall limit any other remedies available to the city.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-198. Failure to complete work within specified time.

In the event any work governed by this article is not completed by the ROW user within the time required or in accordance within the specifications required herein or by the Building Development Services Department, the Building Development Services Department may cause such work to be performed as is necessary to secure the work area to a safe and passable condition. The ROW user shall reimburse the city for the costs of securing the site.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-199. Permanent pavement repairs.

All permanent pavement repairs shall be made under one (1) of the two (2) following methods:

- (1) *Permanent pavement repairs by city.* If the city is to make the permanent pavement repairs, the ROW user shall maintain the excavated area for a period of two (2) weeks after acceptance by the Building Development Services Department. After the two-week period, the city will be responsible for maintaining the excavated area until final restoration is made. Backfill failures shall remain the responsibility of the ROW user. The ROW user shall reimburse the city based on section 28-249 for all costs of any backfill failure before and/or after permanent repair.
- (2) *Permanent pavement repairs by ROW user.* If the ROW user is authorized to make permanent pavement repairs, the ROW user will maintain the excavated area until permanent pavement restoration of the excavated area is complete. The ROW user shall make final repairs within five (5) working days on residential, local streets after the Building Development Services Department makes final inspection. Backfill failures shall remain the responsibility of the ROW user.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-200. Responsibilities for signs, barricades, and warning devices.

The ROW user working in any right-of-way is responsible for the safe movement of traffic, both pedestrian and vehicular, through the construction area. The ROW user shall meet all requirements for barricading and traffic control as specified in the TMUTCD.

- (1) Only those individuals who are qualified by means of adequate training in safe traffic control practices and have a basic understanding of the principles established by applicable standards and regulations, including those in TMUTCD, shall place and maintain the traffic control devices in the construction area. All signs and barricades must conform to the requirements of the TMUTCD and be inspected and approved by the Building Development Services Department.
- (2) The ROW user may subcontract the barricading to a firm specializing in traffic control. Either the ROW user or its subcontractor must submit a traffic control plan to the Building Development Services Department for review. All signs and barricades must conform to the requirements of the TMUTCD.
- (3) All barricades, plates, and other traffic control equipment must conform to TMUTCD specifications and must be inspected and approved by the Building Development Services Department.
- (4) Noncompliance with the TMUTCD shall be cited in writing. In the event of noncompliance after citation, the Building Development Services Department may place the necessary devices as required and the ROW user shall pay the charges therefor. The ROW user shall reimburse the building development services department for all such expenses as well as five hundred dollars (\$500.00) for noncompliance. Failure to comply with this provision may result in denial of application for future permits.
- (5) All traffic control devices must be removed immediately upon completion of work.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-201. Duty to barricade.

At all times during construction activity, the contractor and/or ROW user, as applicable, shall place and maintain all necessary and proper barriers and other safeguards, including certified person in accordance with the safety training described in this article, if necessary, upon and around the work for the prevention of accidents, and after daylight hours, shall place, maintain and keep suitable sufficient lights, in accordance with the TMUTCD.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-202. Inspections.

The permittee shall make the work-site accessible to the city, and others as authorized by law, for inspection at all reasonable times during performance of the work.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-203. Materials testing.

The department may require testing of materials used in construction in or near the right-of-way to determine conformance to required specifications, including, but not limited to, compaction tests on backfill materials, subgrade, aggregate base course, Portland concrete (rigid pavement), asphaltic concrete (flexible pavement) and other construction material as deemed necessary by the department.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-204. Duties of persons making excavations or creating obstructions.

Any person who shall cause to be made any excavation or obstruction in any street or right-of-way may not remain there beyond a time reasonably sufficient for the completion of the work and/or removal of the obstruction, and shall repair the subject portion of such street, or right-of-way so as to restore the same to its condition previous to the making of such cut or obstruction. It shall be the duty of the excavators to protect the area while such condition exists and promptly to repair the same so as to leave the street or right-of-way in as good condition as before the excavation.

- (1) *[Definition.]* In this section, "obstruction" means any object or structure that blocks or impedes the construction or maintenance of public works, including private facilities that provide electricity, gas, information services, sewer service, steam, telecommunications, traffic controls, transit service, video, water, or other services to customers; shrubbery or plants of any kind; and storage materials.
- (2) *[Removal of obstruction.]* If a person fails or refuses to shift, adjust, accommodate, or remove an obstruction after reasonable notice, the city may shift, adjust, accommodate, or remove the obstruction, and the city will charge the person having or maintaining the obstruction for the cost of performing the work.
- (3) *Conflicts among right-of-way users.* In case of a conflict among utilities as to placement of facilities in the public rights-of-way, the city shall have the authority to direct the resolution of such conflict. In such a resolution the city shall seek to accommodate the reasonable needs of each utility, as well as the public health, safety, welfare, and convenience, to the maximum extent possible.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-205. Cease work order.

At any time, the Building Development Services Department may order the immediate cessation of any work, which poses a threat to the health, safety or well-being of the public. The Building Development Services Department may revoke the ROW permit of any permittee in any instance where there is a threat to the health, safety or well-being of the public.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-206. Revocation of permit.

The city reserves its right, as provided herein, to revoke any permits without refund of the ROW permit fee, in the event of a breach by the permittee of the terms and/or conditions of the ROW permit or of this article or any city ordinance. A breach of the ROW permit shall include, but not be limited to the following:

- (1) The violation of any provision of the permit; or
- (2) An evasion or attempt to evade any provision of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens; or
- (3) Any material misrepresentation of any fact in the ROW permit application; or
- (4) The failure to meet insurance, surety bond, or indemnification requirements; or
- (5) The failure to complete the work in a timely manner; or

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- (6) The failure to correct a condition indicated on an order issued pursuant to this article; or
 - (7) Repeated traffic control violations; or
 - (8) Failure to repair facilities damaged in the right-of-way; or
 - (9) Violation of any part of this article.

If the Building Development Services Department determines that the permittee has committed a breach of any law or condition of the right-of-way permit, the Building Development Services Department shall make a written demand upon the permittee to remedy such violation. Continued violation may be cause for revocation of the permit, or legal action, or both. The Building Development Services Department may revoke the permit; provide specifications to cure the breach, or both. Within five (5) calendar days of receiving notification of the breach, permittee shall contact the Building Development Services Department with a plan, acceptable to the Building Development Services Department, for correction of the breach. Permittee's failure to do so or permittee's failure to timely implement the approved plan shall be cause for revocation of the permit.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-207. Right-of-way restoration requirements.

The work to be done pursuant to the ROW permit and any repair and subsequent restoration of the right-of-way must be completed within the dates specified in the permit. In the event of circumstances beyond the control of the permittee or when work is prohibited by unseasonable or unreasonable conditions, the Building Development Services Department may extend the dates on receipt of a substantiated supplementary application for a ROW permit extension.

All earth, materials, sidewalks, paving crossing, or improvement of any kind, which are owned or possessed by city and damaged, disturbed, or removed by a ROW user, shall be fully repaired promptly by the ROW user at its sole expense, as per the city standard specification manual. After any excavation, the ROW user shall, at its expense, restore the right-of-way, trench envelope, pavement structure and the surrounding area, to the same or better condition than it was prior to the excavation.

In the event the ROW user fails to restore the right-of-way in the manner and to the condition required herein, or fails to satisfactorily and timely complete all restoration, the city may, at its option, serve written notice upon the ROW user that, unless within five (5) days after serving of such notice a satisfactory arrangement can be made for the proper restoration of the right-of-way by the ROW user, the city for any and all costs incurred by the city by reason of such prosecution and completion, including, without limitation, the applicable public inconvenience penalty will bill ROW user. Nothing contained herein shall limit any other remedies available to the city.

If any excavation cannot be backed-filled immediately, the ROW user shall securely and adequately cover the excavation and maintain proper barricades, safety fencing and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.

In all right-of-way restoration, the ROW user guarantees its work and a one-year warranty shall be given following completion of the restoration. During the period following completion, the ROW user shall, in the event of any failure of the restoration, upon notification from the Building Development Services Department, reimburse city for pavement restoration costs, and additionally, the ROW user in the event of such failure shall, within forty-eight (48) hours of notice from city, repair the subject trench envelope.

A one-year warranty guarantee period shall be applicable to failure of the pavement surface as well as failure of the trench envelope. Notwithstanding remediation of the pavement structure by city, the ROW user retains repair responsibility at all times during the guaranty period for the trench envelope.

A right-of-way user whose work is completed by the city shall, on completion of the work and according to the certified bill of the cost thereof to be prepared by the Building Development Services Department, pay to the city, on its order, the amount of the certified bill as reimbursement for such work.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-208. Removal and reconstruction where work defective.

All construction work in the streets, right-of-way, sidewalks and public places of the city is declared to be subject to the exclusive control of the city, and whenever, in the opinion of the Building Development Services Department, any such work shall not have been duly completed within a reasonable time or shall have been executed in a defective manner, whether because of bad workmanship or materials or because not true to the lines or grades or specifications thereof given to him by the Building Development Services Department, then upon written demand or notice from the Building Development Services Department, such ROW user or contractor shall promptly remedy, complete or remove and reconstruct such incomplete or defective work all as the Building Development Services Department may require, and these provisions shall also apply to all repair and maintenance work. If the contractor or ROW user shall fail or refuse to do so within a reasonable time to be specified by the Building Development Services Department, then, if the Building Development Services Department shall so order, such work shall be completed or corrected or removed and wholly or partially reconstructed by the city, in such manner as in the opinion of the Building Development Services Department may be necessary to make such work as good as originally required, and such work may be done by contract or otherwise, under the direction of the Building Development Services Department. The expenses for such corrective work shall be changed to the ROW user.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-209. Locations and relocation of facilities.

The ROW user shall, upon the request of the city, locate and/or relocate its facilities situated within any right-of-way, at no expense to the city, where reasonable and necessary to accommodate street widening and straightening, and also when applicable state or federal law requires the ROW users to pay such const and expenses for other public improvement projects of the city. When applicable state or federal law requires the ROW users to pay such cost and expenses when relocation is necessitated by federal government requirement, and includes reimbursements, the city will reimburse applicant for its proportionate share from funds provided the city in such reimbursements.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-210. Pre-excavation facilities location.

The ROW user shall contact the one-call center number so long as that center is in existence or such other center at the time utilized by city, at least forty-eight (48) hours prior to excavation. The ROW user shall protect and support all utility facilities during construction. The ROW user shall schedule a pre-construction inspection with City of Laredo ROW Division prior to starting construction by contacting Building Development Services. The ROW user may require to expose existing utilities via hydro excavation or other approve non-invasive method.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-211. Relocation facilities for city.

In the event the city finds it necessary to move an ROW user's facilities to protect it, city shall notify the local representative of the ROW user. ROW user shall promptly move or facilitate the relocation of the subject facilities at ROW user's expense.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-212. Right-of-way vacation and reservation of right.

In the event of vacation of a right-of-way requiring the relocation of facilities, the ROW user shall have the discretion to agree or decline any third-party request seeking the ROW's user removal or relocation, such removal or relocation shall be done at the expense of the third party requesting the removal or relocation.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-213 Abandoned facilities.

An ROW user owning abandoned facilities in the right-of-way shall:

- (1) Remove its facilities and repair, at its expense, any damage caused by the removal. The Building Development Services Department may allow some or all facilities to remain if the Building Development Services Department determines same is in the best interest of the public to do so; or
- (2) Provide information satisfactory to the city that the ROW user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW user.

The facilities of an ROW user who fails to comply with this section, and those facilities which remain unused for two (2) years, shall be deemed to be abandoned unless, within the aforesaid two-year period, the city receives written confirmation and reasonable evidence that the ROW user intends to use the facilities. The city may exercise any remedies or rights it has at law or in equity including, but not limited to, taking possession of the abandoned facilities or requiring the removal of the facilities by the ROW user.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-214. Routing and spatial assignment.

The city reserves the right, in the ROW permit or otherwise, to restrict or determine the route (pathway) and/or spatial location, including the depth and horizontal and vertical orientation of any facility and utility structure in the right-of-way.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 3. COSTS, FEES, AND ENFORCEMENT

Sec. 28-215. Fees.

- (a) *ROW permit application fee.* There is a non-refundable ROW permit application fee of (\$50.00) fifty dollars. Permits shall be issued or denied within five (5) days. There is an expedited application fee of (\$250.00) two-hundred fifty dollars for permits which shall be issued or denied within two (2) days. The fees are paid by an

applicant when a ROW permit is issued. The fees are charged for administration and input of ROW permit data. An expedited ROW permit may be requested upon a showing good cause, including but not limited to a pending order for service that cannot be met by means of existing facilities of the row user. In such event an expedited ROW permit may be requested and shall be issued or denied within two (2) days of application.

- (b) *Inspection fee.* The work allowed by each ROW permit shall be subject to inspection and approved by the Building Development Services Department. There is a non-refundable inspection fee of two hundred dollars (\$200.00) for the first connection and fifty dollars (\$50.00) for each additional connection (water, sewer, drainage/storm sewer, street, etc.). The department shall conduct a minimum of three inspections during regular working hours. The fee shall be paid at the time of application for a permit. Inspections may be performed on any and all excavations, at the discretion of the Building Development Services Department, based on previous performance of the utility owner, location of excavation, type of work and/or construction methodology. Overtime inspection fees are incurred at a rate of \$150.00 per hour Monday thru Friday and \$250.00 per hour on Saturday, Sundays and holidays. Residential driveways and sidewalks are exempt from the two hundred dollars (\$200.00) inspection fee.
- (c) *ROW permit expiration date.* A fee of thirty dollars (\$30.00) will be charged for any ROW permit that has not been extended before its expiration date and for any ROW permit when work has not been completed by the expiration date provided for in the permit. The thirty-day period begins with the date of issuance of the permit.
- (d) *Electronic maps submittal fee.* A fee of forty dollars (\$40.00) per hour will be charged for each hour of labor necessitated by information submitted to city in hard copy format in lieu of submittals to city in electronic format. There is a minimum of two (2) hours.
- (e) *Registration fee.* There is a fee of fifty dollars (\$50.00) per right-of-way user per year for processing registration information, which fee will be collected upon registration.
- (f) *[Additional costs.]* When administration of this article for a particular activity is or will be unusually costly to the city, the Building Development Services Department may require an applicant or permittee to pay any sum in excess of the amounts provided herein. This additional sum may not exceed actual costs incurred by the city and shall be charged on a time and materials basis. Whenever additional fees are charged, the Building Development Services Department shall provide in writing the basis for the additional fees.
- (g) *[Exceptions.]* Fees under this section shall not be applicable to the holder of a state-issued certificate of franchise authority to the extent such a franchise holder is exempted from ROW permit fees.

(Ord. No. 2009-O-045, 4-6-09; Ord. No. 2017-O-105 , § 2, 9-5-17; Ord. No. 2018-O-031 , § 3, 2-20-18)

Sec. 28-216. Penalties for violation of this article.

Each violation of this article for failure of a ROW user to secure a ROW permit shall be punishable as follows: for the first offense a ROW permit fee for one thousand dollars (\$1,000.00) shall be imposed; for the second offense a ROW permit fee of two thousand dollars (\$2,000.00)-dollars shall be imposed; and for a third offense a ROW permit fee of four thousand two thousand dollars (\$4,000.00) shall be imposed. After the third offense an offender's registration shall be suspended for a period of one hundred eighty (180) days during which no permits of any kind shall be approved for such ROW user. Any such suspended ROW users shall pay a reinstatement fee of two thousand five hundred dollars (\$2,500.00) if and when the Building Development Services Department approves the ROW user's reinstatement. Any fines that are collected pursuant to this section shall be deposited in to Fund No. 1530.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-217. Public inconvenience penalty.

Public inconvenience penalties are assessed and calculated from the date of expiration of the ROW permit until date of completion of work or repair or of final backfill if turned over to the department for repair. This penalty shall not exceed and is capped by statutory limits. Public inconvenience penalties are charged per day as established by City of Laredo Engineering Department latest approved costs. follows unless exempt by state law:

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-218. City construction repair cost.

If the city is to make the permanent pavement repairs, the ROW user shall pay city for reasonable cost to restore the street or right-of-way, in accordance with the latest approved cost established by City of Laredo Engineering Department:

TYPE OF REPAIR	UNIT COST
Street with concrete with asphalt surface	
Street with flexible base or soil stabilized base with asphalt surface	
Concrete sidewalk or driveway	
Concrete curb and gutter	
Full depth colored concrete for accessible ramps	
Full colored stamp concrete	
* Any other such as drainage structure inlet, manhole, culvert, concrete lined channel pipe, and water and waste water lines	

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 4. INDEMNIFICATION, INSURANCE, BONDING, AND LIABILITY

Sec. 28-219. Liability of right-of-way user.

To the extent allowed by law, the right-of-way user shall be liable to the city for any damage or loss occasioned by any act or omission occurring in connection with his excavation, and subject to state law, the ROW user shall fully indemnify, hold harmless and defend city, its officers and employees from and against any and all suits, actions, judgments, losses, costs, demands, claims, expenses (including attorney's fees), damages, and liabilities of every kind to which the city, its officers or employees may be subjected for injury of any type, death or property damage arising from or connected with any such act or omission. City shall promptly notify a permittee, or ROW user, at the address set forth in the permit, or last known address, of any claim or suit served upon the city and alleging negligent or wrongful conduct by the permittee or ROW user in connection with an excavation.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-220. Insurance.

- (a) Right-of-way Utility users shall furnish an original completed certificate of insurance or the city's standard certificate of insurance form to the city's finance department, purchasing division, building development services and risk management division which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. The original certificate(s) or form(s) must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the city. The city shall have no duty to pay or perform under this ordinance until such certificate shall have been delivered to the city's finance department, and building development services department, and no officer or employee, other than the city's risk manager, shall have authority to waive this requirement.
- (b) The city reserves the right to review the insurance requirements of this section to modify insurance coverage and their limits when deemed necessary and prudent by the city's risk manager based upon changes in statutory law, court decisions, or circumstances surrounding this ordinance, but in no instance will the city allow modification whereupon the city incur increased risk.
- (c) Subject to the right-of-way user's right to maintain reasonable deductibles in such amounts as are approved by the city, right-of-way users shall obtain and maintain in full force and effect for the duration of the ROW permit and any extension thereof and/or duration of time it maintains facilities in the public right-of-way, at the right-of-way user's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the state and rated A-or better, in the following types and amounts:

TYPE	ROW Utility Users	AMOUNT
1.	Worker's Compensation Employer's Liability	Statutory \$2,000,000.00/\$500,000.00/\$2,000,000.00
2.	Commercial General (Public) Liability Insurance to include coverage for the following:	
	a) Premises/Operations	Bodily Injury and Property Damage of \$2,000,000.00 per occurrence \$5,000,000.00; general aggregate or its equivalent in umbrella or excess liability coverage.
	b) Independent Contractors	
	c) Products/Completed Operations	
	d) Contractual Liability	
	e) Personal Injury	
	f) Explosion, Collapse, Underground	
	g) Broad from Property Damage, to Include Fire Legal Liability	
* 3.	Business Automobile Liability	Combines single limit for bodily injury and property damage of \$1,000,000.00 per occurrence or its equivalent.
	a) Owned/Leased Vehicles	
	b) Nonowned Vehicles	
	c) Hired Vehicles	
* 4.	Professional Liability (Claims made from)	\$1,000,000.00 per claim to pay on behalf of the insured all sums which the Insured shall become legally obligated to pay as damages by Reason of

		any act, malpractice, error or omission in professional services.
* 5.	Contractor's Pollution Liability Coverage	\$1,000,000.00 written on a claim made from with a two-year extended reporting period.
* 6.	Pollution Liability Motor Carrier and Trucker Coverage Endorsing the Upset, Overturn and Remediation of a Load in Transport.	\$1,000,000.00 per occurrence written on an occurrence form. Combined single limit for bodily injury and property damage.
* *	If applicable	

TYPE	ROW Driveway Users	AMOUNT
1.	Worker's Compensation Employer's Liability	Statutory \$500,000.00
2.	Commercial General (Public) Liability Insurance to include coverage for the following:	
	a) Premises/Operations	Bodily Injury and Property Damage of \$2,000,000.00 per occurrence \$5,000,000.00; general aggregate or its equivalent in umbrella or excess liability coverage.
	b) Independent Contractors	
	c) Products/Completed Operations	
	d) Contractual Liability	
	e) Personal Injury	
	f) Explosion, Collapse, Underground	
	g) Broad from Property Damage, to Include Fire Legal Liability	
* 3.	Business Automobile Liability	Combines single limit for bodily injury and property damage of \$1,000,000.00 per occurrence or its equivalent.
	a) Owned/Leased Vehicles	
	b) Nonowned Vehicles	
	c) Hired Vehicles	
* 4.	Professional Liability (Claims made from)	\$200,000.00 per claim to pay on behalf of the insured all sums which the Insured shall become legally obligated to pay as damages by Reason of any act, malpractice, error or omission in professional services.
* 5.	Contractor's Pollution Liability Coverage	\$500,000.00 written on a claim made from with a two-year extended reporting period.
* 6.	Pollution Liability Motor Carrier and Trucker Coverage Endorsing the Upset, Overturn and Remediation of a Load in Transport.	\$500,000.00 per occurrence written on an occurrence form. Combined single limit for bodily injury and property damage.
* *	If applicable	

- (d) The city shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the city, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusion (except where policy revisions are established by law or regulation binding upon either of the parties hereto or the underwriter of an such policies). Upon such request by the city, the rights-of-way user shall exercise reasonable effort to accomplish such changes in policy coverage, and shall pay the cost thereof.
- (e) Right-of-way users shall ensure that all insurance contracts and certificate(s) of insurance contain the following required provisions.
- Name and city and its officers, employees, volunteers, agents, and elected representatives as additional insured's with respect to the operations and activities of, or on behalf of, the named insured performed in the right-of-way under provision of this article, with the exception of the professional liability, worker's compensation and liability policy; and
 - Right-of-way user's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the city; and
 - Provide for an endorsement that the "other insurance" clause shall not apply to the city where the city is an additional insured shown on the policy; and
 - Worker's compensation and employer's liability will provide for a waiver of subrogation in favor of the city.
- (f) Right-of-way user shall notify the city in the event of any notice of cancellation, nonrenewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days' notice for cancellation due to nonpayment of premiums, which notice must be accompanied by a replacement certificate of insurance. All notices shall be given to the city at the following address:

City of Laredo	City of Laredo
Building Development Services Dept.	City Secretary
1413 Houston Street	1110 Houston
Laredo, TX 78040	Laredo, TX 78040

- (g) Nothing herein contained shall be construed as limiting in any way the extent to which the right-of-way user may be held responsible for payments of damages to persons or property resulting from the right-of-way user's or its subcontractors performance of the work performed in the public right-of-way. Any subcontractor hired by the right-of-way user shall maintain insurance coverage equal to that of the right-of-way user. It is the responsibility of the right-of-way user to assure compliance with this provision. The city accepts no responsibility arising from the conduct, or lack of conduct of the subcontractor.
- (h) The city-owned utilities and city public works departments shall not be required to provide the insurance specified herein.
- (i) With respect to the right-of-way user's obligation to comply with the requirements for commercial general (public) liability insurance coverage to include pollution coverage, the city may allow the right-of-way user to self-insure upon annual production of evidence that is satisfactory that is satisfactory to the city's risk manager. With respect to the right-of-way user's obligation to comply with the requirements for automobile liability insurance and for worker's compensation insurance, a right-of-way user may self-insure, provided the right-of-way user tenders satisfactory evidence of self-insurance as contemplated by the state motor vehicle financial responsibility law, V.T.C.A., Transportation Code § 601.124, and the Texas Worker's Compensation Act, V.T.C.A., Labor Code § 407.001 et. seq.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-221. Performance/assurance bond.

Except as stated in V.T.C.A., Utilities Code § 66.011(A)(5), before a ROW permit shall be issued, the applicant thereof shall execute and deliver to the city, to be kept on file in the city's secretary's office, a good and sufficient bond of performance or assurance, in the sum of twenty five thousand dollars (\$25,000.00) to be approved by the risk manager and conditioned that the person making the application shall promptly adjust, pay and settle all legitimate claims for damages that may result by reason of carelessness or negligence in the manner of performing such work or by reason of any defects therein caused or arising from carelessness, negligent or imperfect construction thereof, and to hold the city free and harmless from liability on all such claims for damages to the performance or assurance bond shall cover the cost of repairs in or upon the street, sidewalk, or other public place where the work is to be done that may become necessary by reason of such pavement cut or excavation having been made. The bond shall be maintained until the work is accepted by the city.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-222. Optional continuing bond and deposit.

In lieu of a bond performance or assurance required for each ROW permit issued, under the performance/assurance bond section of this article, the applicant may maintain a one-time bond of performance or assurance with the Building Development Services Department for the sum of one hundred thousand dollars (\$100,000.00) for the purposes specified in section 28-267, and shall have on file, in the city secretary's office, an approved bond of performance or assurance in the like amount, being then in full force and effect, against which claims shall not have been presented aggregating more than one hundred thousand dollars (\$100,000.00); provided, further, that section 28-269 shall apply to applications for permits to make cuts, openings or excavations in any street, plaza or other public place paved under contract with the city, unless the contract of maintenance and the maintenance bond thereof shall have expired. The bond shall be maintained until the applicant is no longer working in or on city streets.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-223. Liability of contractor and sureties for maintenance and repair work.

Any defects of workmanship or material relating to work done by an excavator during the initial project or becoming known or which should have been known during the guarantee period (the life of the street) shall be known as maintenance or repair work and both the excavator and the sureties and/or the contractor's bond shall be fully liable for any default of such contractor under this section. In the event of a failure in the restoration of an excavation, the ROW user shall have one opportunity to repair, in a timely manner, the section of the restoration that has failed at its expense, which repair shall be in accordance with the standards set forth in this article. In the event of any subsequent failure of that section of the restoration, the city retains the right and option to terminate the ROW user's guaranty, upon written notice to the ROW user. In such event, the ROW user shall reimburse the city for its direct costs associated with the repair of the failure of the restoration work.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-224. When additional security required.

In the event the Building Development Services Department reasonably believes the contractor or ROW user's solvency is threatened, the Building Development Services Department may, at any time, make written demand on a contractor or ROW user for bonds and the contractor or ROW user shall immediately furnish such additional bond or bonds.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-225. Decision of Building Development Services Department binding on contractor, row user, and sureties.

Any question about when any work was actually begun or any other specific date shall be determined by the Building Development Services Department and shall be binding on the contractor, ROW user, and the sureties on all such bonds.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 5. VARIANCES AND EXEMPTIONS

Sec. 28-226. Variances/exemptions.

A permittee or ROW user may request a variance from any of the requirements of this article by filing a written request with the Building Development Services Department stating the requirement and the basis for requesting the variance. Incomplete variance requests may be rejected. The applicant shall bear its own expenses of the application process.

- (a) Any request for a variance from any right-of-way restoration requirement shall be made in writing in advance of any contemplated work and shall be accompanied by digitally formatted detailed plans of the substituted reconstruction and/or repair of the excavated area, if applicable.
- (b) Any request for an exemption from any penalty or fee other than as provided in this [article] shall be made in writing and shall be accompanied by a written detailed request stating the reason thereof.
- (c) Any request for an exemption from any permit, or any other requirement of this article shall be made in writing, by detailed written request therefor, stating all pertinent reasons.
- (d) The department shall grant or deny an application for a variance within ten (10) days of receipt of the application for variance.
- (e) Denial of the variance may be appealed in accordance with the appeal section of this article.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 6. SPRINKLER SYSTEM INSTALLATION

Sec. 28-227. Commercial and residential irrigation, sprinkler systems installation.

For sprinkler system installation please refer to chapter 25 Plumbing of The City of Laredo Code of Ordinances. Other reference is the city standard technical specification manual.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 7. CERTIFIED TELECOMMUNICATION PROVIDERS

Sec. 28-228. Certified telecommunication provider's authority required/nonexclusive use.

A CTP must provide evidence to the Building Development Services Department that the CTP has acquired authorization from the Public Utility Commission of Texas pursuant to state law, prior to obtaining a ROW permit to use the public rights-of-way. The Building Development Services Department shall also confirm with the city communication officer that the CTP is registered as a CTP authorize to provide service in Laredo. The CTP's right to use and occupy the public rights-of-way shall not be exclusive and CTP recognizes that the city reserves the right to exercise the maximum amount of authority it retains following adoption of V.T.C.A., Local Government Code chapter 283.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-229. Additional authority required.

Neither the CTP nor any of its affiliates are authorized to provide cable television service as a cable operator or to operate an open video system in the city, unless they have first obtained a separate cable franchise agreement under such terms and conditions as may be required by law. This section does not preclude the CTP from providing its services to cable television companies. Unless a cable television operator shows proof of appropriate authorization, nothing herein shall authorize the CTP to license, sublicense, lease, and sublease or by any instrument authorize any cable television operator the right to use or utilize the transmission media or facilities of the CTP.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-230. Transfer and notice.

A CTP shall notify the Building Development Services Department and the city's Building Development Services Department of information services and telecommunication of any sale, transfer, merger or assignment of the ownership or control of a CTP's business within at least thirty (30) days prior to such sale, transfer, merger or assignment. A CTP shall also maintain and provide current point-of-contact information with the Building Development Services Department and the city's Building Development Services Department of information services and telecommunication at all times during which the CTP uses the right-of-way.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-231. Exemption from fees.

In compliance with state law certified telecommunications providers (not contractors hired to work on behalf of telecommunications providers) are exempted from the following fees provided for in this article:

- ROW permit application fee, including expedited application fee, and ROW permit expiration fee;
- Additional excavation ROW permit fee;
- Inspection fee;
- Registration fee.

Should state law be amended to make collection of any of these fees permissible, then the above granted exemption shall cease to exist for that fee.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-232. Indemnification.

A CTP shall indemnify the city as specified by V.T.C.A., Local Government Code § 283.057, as may be amended. A CTP shall be exempt from all requirements of this article that are inconsistent with V.T.C.A., Local Government Code § 283.057.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 8. MINOR ENCROACHMENT LICENSE

Sec. 28-233. Minor encroachment license.

- (a) In addition to any ROW permit and application fees required by this article, a non-CTP ROW user shall obtain a minor encroachment license, including the payment of an annual fee for each wire telecommunications system installed by boring or open-cut trenching beneath right-of-way or deployed aerially above the right-of-way. The terms and fees of the license issued by the Building Development Services Department shall be consistent with the guidance below.
- (b) In the absence of an agreement between the city and the ROW user to the contrary, each license shall authorize the installation of wiring or conduit that shall not exceed four and one-half (4½) inches in external diameter unless granted permission by the Building Development Services Department upon a showing of need.
- (c) In the absence of an agreement between the city and the ROW user to the contrary, each active or nonactive fiber optic conduit license shall be for a term of five (5) years, with the option to renew for a five-year term. Each license shall not be transferable or assignable without first obtaining city council approval.
- (d) In the absence of an agreement between the city and the ROW user to the contrary, the annual fee from each minor encroachment license shall be the greater of two thousand five hundred dollars (\$2,500.00) or the number of linear feet of encroachment times two dollar fifty cents (\$2.50) for the first year following enactment of this article. The linear foot rate shall increase by CPI per year.
- (e) The processing fee for each minor encroachment license shall be five hundred dollars (\$500.00).

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-234. Administration of minor encroachment licenses.

- (a) The position of city communications officer shall be maintained and the city communications officer shall be an employee of the city, who shall report to the city manager.
- (b) The duties of the city communications officer shall include:
 - (1) To receive complaints from members of the public regarding licensees' uses and occupancy of the right-of-way, to advise licensees concerning such complaints, to communicate with other municipal, state and federal regulators concerning complaints and related matters and to report to the council and to the city manager on all complaints received and the resolution of these complaints as appropriate.
 - (2) To prepare reports, recommendations, and other documents concerning licensees uses and occupancy of the right-of way, and to submit the same to the city manager.

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- (3) To advise the city manager concerning any matters pertaining to the city's management of the use and occupancy of the right-of-way by licensees.
 - (4) To procure and review audits of the operational activities of CTPs and licensees to ensure conformity of their use and occupancy of the right-of-way to this article and the terms of their respective Licenses.
 - (5) The city manager shall from time to time submit to the council a proposed budget for the office of the city communications officer showing the salaries to be paid to the city communications officer and any other personnel to be assigned to the office and all other projected expenses of the office.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 9. WEIGHT-LIMITED BRIDGES

Sec. 28-235. Bridge weight limit violation.

It shall be unlawful for the operator of any vehicle to drive, haul, push, or tow, wholly or partially, any load upon a posted weight limited bridge which collectively exceeds the officially designated and posted maximum bridge weight, whether or not all load bearing wheels travels onto the bridge.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-236. Penalty upon conviction.

Any violation of the provisions of this division is hereby declared to be a health and safety related violation. A culpable mental state is not required to prove an offense under this article. A person who violates a provision of this article is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued, authorized, directed or permitted. An offense under this Section is punishable by a fine of not less than five hundred dollars (~~\$2,000.00~~ ~~500.00~~) or more than two thousand dollars (~~\$5,000.00~~ ~~2,000.00~~). Any other offense under this article is punishable by a fine of five hundred dollars (~~\$2,000.00~~ ~~500.00~~). The 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 a violation of this article.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 10. AGUS (ABOVE-GROUND UTILITY SYSTEM)

Sec. 28-237. ROW permit and other requirements.

- (a) A ROW permit shall be required for all AGUS in the public right-of-way when:
 - (1) Placing new AGUS on or adjacent to residentially zoned property; or
 - (2) Replacing or upgrading AGUS in residentially zoned property in accordance with following; or
 - (i) The upgrade or replacement AGUS is larger than the existing;
 - (ii) The upgrade or replacement AGUS is taller than thirty-nine (39) inches.
 - (3) An AGUS replaces a utility structure that was previously below ground,
- (b) A ROW permit is not required for:

(Supp. No. 19, Update 3)

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- (1) Placing AGUS on property not zoned residentially or adjacent to properly zoned residentially.
 - (2) Replacements or upgrades to existing AGUS that are in compliance with the AGUS guidelines in effect at the time of the replacement or upgrade.
 - (3) Replacements or upgrades that do not increase the size or change the location of an existing AGUS that is less than thirty-nine (39) inches tall.
 - (4) Maintenance or service to an existing AGUS.
- (c) ROW permit applicants shall identify appropriate locations for the AGUS that comply with the placement criteria set forth in the AGUS placement guidelines.
 - (d) AGUS shall comply with all requirements of other city ordinances and other state and federal laws and regulations. The AGUS owner shall be responsible for obtaining other permits, as required.
 - (e) The owner of an AGUS shall maintain the AGUS free of graffiti and other defacements such as posters, stickers, decals, and signs, except those placed on the AGUS by the AGUS owner. The exterior finish of a utility structure shall be maintained relatively free of rust, peeling or faded paint, or other visible deterioration. An AGUS and its supporting foundation or pad shall be maintained in such a way as to prevent or eliminate leaning and soil erosion underneath. AGUS that lean beyond fifteen (15) degrees from the perpendicular shall be corrected to be as close as possible to perpendicular. Any open space between the bottom of a foundation or pad and the ground underneath shall be filled with either additional soil or concrete to maintain continuous contact with the ground. The ROW permit application for installation of an AGUS shall include the name mailing address and telephone number of a single point of contact responsible for resolving graffiti and other appearance issues should they occur.
 - (f) The AGUS shall be clearly marked with the owner's name and telephone number.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-238. AGUS—Request for waiver.

- (a) A request for a waiver from placing AGUS in accordance with one (1) or more of the AGUS placement guidelines may be made to the Building Development Services Department with respect to a particular site for a proposed utility structure. The request for a waiver must include a detailed justification for the waiver, including alternative sites sought and reviewed; proof that compliance with the guideline is impracticable; and the necessity of the AGUS and its size at the proposed site to provide service.
- (b) Within ten (10) business days of receipt of a written request for a waiver, the Building Development Services Department may grant a waiver for good cause shown. Waiver requests not granted within that time period are deemed denied.
- (c) In making this decision, the Building Development Services Department shall consider:
 - (1) The feasibility of other sites not located in the public right-of-way and an AGUS owner's efforts to secure those sites;
 - (2) The size, location and impact of the proposed AGUS at the proposed site and on the surrounding properties;
 - (3) The AGUS owner's need to provide services to a property or area to be served by the proposed site;
 - (4) The AGUS owner's need for the proposed size of the AGUS to provide services to a property or area to be served by the proposed site;
 - (5) The public health, safety, welfare and convenience; and

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- (6) The size and location of other nearby AGUS.
 - (d) The Building Development Services Department shall indicate in written communication the basis for granting or denying any waiver pursuant to this subsection.
 - (e) If a waiver is deemed denied because of its was not granted within the allowed timeframe, the AGUS owner may resubmit the request to the Building Development Services Department or appeal as set out below.
 - (f) The Building Development Services Department 's decision regarding the waiver may be appealed to the city manager or his or her representative within 10 calendar days of the Building Development Services Department 's decision. The city manager decision shall be subject to the same time constraints and considerations as set out above for the Building Development Services Department.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-239. AGUS—Placement guidelines.

- (a) Identification of appropriate location so that:
 - (1) Pedestrian travel is not unreasonably impeded, paying particular attention to the needs of persons with disabilities.
 - (2) Access to city or other service provider facilities is not obstructed.
 - (3) Travel on public streets is not impeded.
 - (4) Property owners are not unreasonably inconvenienced.
- (b) Locate AGUS as close as practical to the common lot line.
- (c) Place AGUS on a common side of the building.
- (d) The AGUS supporting pad should extend no more than one (1) foot from the structure unless required for structural stability or for safe access or to provide a stable surface for workers to stand on while servicing the AGUS.
- (e) AGUS should not be larger than necessary to contain and protect the required equipment.
- (f) AGUS should not obstruct the view of traffic and signals.
- (g) AGUS should not front the boundaries of a park.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 11. MISCELLANEOUS PROVISIONS

Sec. 28-240. Savings clause.

All rights or remedies of the city are expressly saved as to any and all violations that have accrued at the time of the effective date of this article and as to such accrued violations and all pending litigation, both civil or criminal, whether pending in court or not, same shall not be affected by this article but may be prosecuted until final disposition by the courts.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-241. Penalty for violation.

Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this article shall be deemed guilty of a class C misdemeanor and upon conviction in the municipal court shall be punished by a fine not to exceed five thousand dollars (\$5,000.00) if the offense involves fire safety, public health, sanitation, or zoning, and not to exceed five thousand dollars (\$5,000.00) for other offenses. Each day a violation or noncompliance continues constitutes a separate offense. The penalty provided herein shall be cumulative of other remedies provided by state law, and the power of injunction as provided in V.T.C.A., Local Government Code 54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

(Ord. No. 2009-O-045, 4-6-09)

Sec. 28-242. Effective date.

This article shall take effect immediately from and after its passage and publication of the caption as the law and Charter in such cases provide.

(Ord. No. 2009-O-045, 4-6-09)

DIVISION 12. WIRELESS FACILITIES

Sec. 28-243. Applicability.

A network provider shall comply with the city's right-of-way management ordinance, except where in conflict with this division or chapter 284.

(Ord. No. 2017-O-105 , § 3, 9-5-17)

Sec. 28-244. Prohibited and preferred locations of micro network node, network node, node support pole and related ground equipment.

- (a) *Prohibited or restricted areas for certain wireless facilities, except with separate city agreement or subject to concealment conditions.*
 - (1) *Municipal parks and residential areas.* In accordance with chapter 284, sec. 284.104(a), a network provider may not install a node support pole in a public right-of-way without the city's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a municipal park or is adjacent to a street or thoroughfare that is:
 - a. Not more than fifty (50) feet wide of paved street surface, being the area measured as the shortest distance between the inside of the curb to the inside of the opposite curb, or the area measured as the shortest distance between the two (2) parallel edges of the paved roadway for vehicular travel where there is no curb; and
 - b. Adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

In accordance with chapter 284, Sec. 284.104(b), a network provider installing a network node or node support pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

Each ROW permit application shall disclose if it is within a municipal park or within a residential area as described above.

- (2) *Historic district and design districts.* In accordance with chapter 284, sec. 284.105, a network provider must obtain advance written approval from the city before collocating network nodes or installing node support poles in a design district with decorative poles or in an area of the city zoned or otherwise designated as a design district or historic district.
 - a. As a condition for approval of network nodes or node support poles in design districts with decorative poles or in a historic district, the city shall require reasonable design or concealment measures for the network nodes or node support poles. Therefore, any request for installations in a design district with decorative poles or in a historic district, must be accompanied with proposed concealment measures in the ROW permit applications.
 - b. The city request that a network provider explore the feasibility of using camouflage measures to improve the aesthetics of the network nodes, node support poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in design districts or in an historic district.
 - c. Network provider shall comply with and observe all applicable city, state, and federal historic preservation laws and requirements.
 - d. Each ROW permit application shall disclose if it is within a design district with decorative poles or in an area of the city zoned or otherwise designated as a design district or historic district.
 - (3) *Historic landmarks.* A network provider is discouraged from installing a network node or node support pole within three hundred (300) feet of a historic site or structure or historic landmark recognized by the city, state or federal government (see, for example, and not limited to section 442.001(3) of the Texas Government Code, and 16 U.S.C. § 470), as of the date of the submission of the permit. Each ROW permit application shall disclose if it is with three hundred (300) feet of such a structure.
 - (4) *Compliance with undergrounding requirements.* In accordance with chapter 284, sec. 284.107, a network provider shall comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.
 - a. Areas may be designated from time to time by the city as underground requirement areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.
 - b. Each ROW permit application shall disclose if it is within an area that has undergrounding requirements.
- (b) *Least preferable locations.*
- (1) *Residential areas and parks.* A network provider is discouraged from installing a network node on an existing pole in a public right-of-way without written consent from the city council if the public right-of-way is located in or adjacent to a street or thoroughfare that is adjacent to a municipal park or single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

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- a. In accordance with chapter 284, sec. 284.104(b), a network provider installing a network node or a node support pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.
 - (2) *Historic districts and design districts.* A network provider is discouraged from installing a network node or a node support pole in the public right-of-way in any area designated by the city as a design district or in an area of the city zoned or otherwise designated as a historic district unless such a network node or a new node support pole is camouflaged.
 - (c) *Most preferable locations.*
 - (1) Industrial areas if not adjacent to a municipal park, residential area, historic district or design district.
 - (2) Highway rights-of-way areas if not adjacent to a municipal park, residential area, historic district or design district.
 - (3) Retail and commercial areas if not adjacent to a municipal park, residential area, historic district or design district.
 - (d) *Designated areas.*
 - (1) The city council may designate an area as a historic district or a design district under chapter 284, section 284.105 at any time.
 - (2) Currently designated historic districts are:
 - a. Historic district number 1 is the area referred to as St. Peter's Historic District. Its boundaries were established by Council in Ordinance No. 85-0-72.
 - b. Historic district number 2 is the area referred to as San Agustin De Laredo Historic District. Its boundaries were established by council in Ordinance No. 85-0-72.
 - c. Historic district number 3 is the area referred to as Old Mercado Historic District. Its boundaries were established by council in ordinance No. 85-0-72.
 - (3) Currently there are no designated design district areas within city.
 - (4) The failure to designate an area in this division shall not mean that such an area is not within a defined district, if so designated by the city council. Future areas may be designated as one (1) of these districts at any time. Such a designation does not require a zoning case.
 - (5) While not required under chapter 284 to designate underground requirement areas to prohibit above ground wireless facilities, the city may also, from time to time, also designate underground requirement areas.
 - (e) *Exceptions.* The city by its discretionary consent and agreement may grant exception to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by chapter 284, sec. 284.109 and sec. 284.110.
 - (f) Order of preference regarding network node attachment to existing facilities and new node support poles.
 - (1) Existing telephone or electrical lines between existing utility poles. Micro network nodes shall only be lashed on existing telephone or electrical lines between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on utility poles, node support poles or service poles.
 - (2) Existing utility poles (electric poles or telephones poles), shall be the preferred support facility for network nodes and related ground equipment.
 - (3) Municipal service poles:

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- a. Non-decorative street lights with a height of more than twenty (20) feet.
 - b. Traffic signal structures when such installation will not interfere with the integrity of the facility and will not interfere with the safety of public and in accordance with an agreement as allowed by chapter 284, sec. 284.056 and sec. 284.101(a)(3), and (b).
 - c. Street signage shall be a low priority use for attachment of a network node.
 - d. Other municipal service pole use is discouraged.
- (4) New node support poles shall be the least preferred type of allowed facility for attachment of network nodes.
- (5) Ground equipment should be minimal and the least intrusive.

(Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-245. Fees.

- (a) All fees for ROW permit applications and all rents for use of the public rights-of-way by network providers shall conform to the provisions set forth in chapter 284.
- (b) Application fees: Because the city requires the payment of the fee for similar types of commercial development inside the city's territorial jurisdiction, other than a type for which application or ROW permit fees are not allowed by law, the city is eligible to charge an applications fee for deployments, including transport facilities, under this chapter.

Unless there is a change in law, the fees shall be assessed on the number of poles and or network nodes contained in an application for installation or for a transport facility at the following rates:

- (1) Five hundred dollars (\$500.00) per application.
 - a. This amount will cover applications covering up to five (5) network nodes.
 - (2) For applications with more than five (5) network nodes, there shall be an additional two hundred and fifty dollars (\$250.00) fee for each additional network node per application; and
 - (3) One thousand dollars (\$1,000.00) per application for each pole.
- (c) Adoption of the above fees shall not be seen as a finding by the city that the fees are greater than or equal to the actual, direct, and reasonable costs the city determines are incurred in granting or processing an application that are reasonably related in time to the time the costs of granting or processing an application are incurred.
- (d) Rent from network providers:
- (1) *Nodes*: The annual network node site rental rate as set in chapter 284 sec. 284.053 shall be two hundred fifty dollars (\$250.00) per network node site, with annual CPI adjustment as provided for in chapter 284, sec. 284.054.
 - (2) *Poles*: Chapter 284, sec. 284.053 does not provide a separate rate for poles.
 - (3) *Transport facility*: The annual transport facility rental rate as set in chapter 284 sec. 284.055. shall be twenty-eight (\$28.00) monthly for each network node site, unless an equal or greater amount is paid the city, e.g., under chapter 283, Tex. Loc. Gov. Code or Chapter 66, Tex. Util. Code.

(Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-246. Guidelines on placement.

(a) *Generally.* In accordance with chapter 284, section 284.102, a network provider shall construct and maintain network nodes and node support poles in a manner that does not:

- (1) Obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
- (2) Obstruct the legal use of a public right-of-way by other utility providers;
- (3) Violate nondiscriminatory applicable codes;
- (4) Violate or conflict with the city's rights-of-way management ordinance or this division.
- (5) Violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Failure to comply with subparagraphs (1) to (4) above shall be subject to all remedies available under law and subject to application of the penalties outlined in section (b)(4) b. of this section.

(b) *General requirements and information:*

(1) *Size limits.* Network providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in chapter 284, in accordance with, but not limited to chapter 284, sec. 284.002, size of a micro network node, sec. 284.003, size of network nodes, and sec. 284.103, max. pole height, with each application and with each request for a ROW permit for each location.

(2) *State and federal rights-of-way permit.* If the project lies within a highway right-of-way, the applicant must provide evidence of a ROW permit from the state or federal government.

(3) *Confirmation of non-interference with city safety communication networks.*

- a. The network provider shall provide analysis that the proposed network node shall not cause any interference with city public safety radio system, traffic signal light system, or other city safety communications components in accordance with chapter 284, sec. 284.304.
- b. It shall be the responsibility of the network provider to evaluate, prior to making application for permit, the compatibility between the existing city infrastructure and provider's proposed network node. A network node shall not be installed in a location that causes any interference. Network nodes shall not be allowed on city's public safety radio infrastructure.
- c. Failure to comply with subparagraphs a. and b. above shall be subject to all remedies available under law and subject to application of the penalties outlined in section (b)(4) b. of this section.

(4) *Improperly located network node facilities, node support poles and related ground equipment.*

- a. Improperly located network node facilities, node support poles and related ground equipment shall not impede pedestrian or vehicular traffic in the right-of-way. If any network node facilities, node support poles or ground equipment is installed in a location that is not in accordance with the plans approved by the city manager and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the right-of-way non-compliant with applicable laws, including the American Disabilities Act, then network provider shall promptly remove the network node facilities, node support poles or ground equipment.
- b. Notice to remove unauthorized facilities and relocate and penalty. After thirty (30) days' notice to remove of network node facilities, node support poles or ground equipment that is located in the incorrect permitted location, if not relocated the network provider shall be subject to a penalty of one thousand dollars (\$1,000.00) per day penalty until the network node facilities, node support poles or ground equipment is relocated to the correct area within the permitted

location, regardless of whether or not the network provider's contractor, subcontractor, or vendor installed the network node facilities, node support poles or ground equipment in strict conformity with the city's rights-of-way management ordinance, and other applicable ordinances concerning improperly located facilities in the rights-of-way.

(c) *Underground requirement areas.*

- (1) In accordance with chapter 284, section 284.107, a network provider shall, in relation to installation for which the city approved a ROW permit application, comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.
- (2) If a location is designated by the city to be an underground requirement area, then a network provider's ROW permit for the location of the micro network node, network node, node support pole, and related ground equipment at such location will be revoked ninety (90) days after the designation, with removal of said the micro network node, network node, node support pole, and related ground equipment at such location within ninety (90) days of such designation, or as otherwise reasonably allowed by the city for the transition of other overhead facilities.

(d) *Network node facilities placement:*

- (1) *Right-of-way.* Network node facilities, node support poles and related ground equipment shall be placed, as much as possible, within two (2) feet of the outer edge of the right-of-way line to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way.
- (2) *Height above ground.* Network node attachments to a pole shall be installed at least eight (8) feet above the ground in accordance with chapter 284, section 284.108, and if a network node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground. As the most heavily truck trafficked community in America, the council finds this higher height necessary for public safety.
- (3) *Protrusions.* In accordance with chapter 284, sec. 284.003(a)(1)(C), sec. 284.003 (a)(2)(C) and sec. 284.003-(a)(3)(B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.
- (4) Limit on number of network nodes per site. there shall be no more than one (1) network node on any one (1) pole.

(e) *New node support poles.*

- (1) *New node support poles spacing.* New node support poles shall be spaced apart from existing utility poles or node support poles at the same as the spacing between utility poles in the immediate proximity, but no less than at a minimum three hundred (300) feet from a utility pole or another node support pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.
- (2) *Height of node support poles or modified utility pole.* In accordance with chapter 284, sec. 284.103 a node support pole or modified utility pole may not exceed the lesser of:
 - a. Ten (10) feet in height above the tallest existing utility pole located within five hundred (500) linear feet of the new pole in the same public right-of-way; or
 - b. Fifty-five feet above ground level.

(f) *Ground equipment.*

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- (1) *Ground equipment near street corners and intersections.* Ground equipment should be minimal and the least intrusive. In accordance with chapter 284, section 284.102(1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way, and in order to maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic, and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within two hundred fifty (250) feet of a street corner or a street intersection.
 - (2) *Ground equipment near municipal parks.* For the safety of municipal park patrons, particularly small children, and to allow full line of sights near municipal park property, the network provider shall not install ground equipment in a right-of-way that is within a park or within two hundred fifty (250) feet of the boundary line of a park, unless approved by the city manager and Building Development Services Department of the parks and leisure department in writing.
- (g) *Municipal service poles.*
- (1) Installations on all service poles shall be in accordance with an agreement as allowed by chapter 284, sec. 284.056 and sec. 284.101(a)(3), and (b).
 - (2) Required industry standard pole load analysis. Installations on all service poles shall have an industry standard pole load analysis completed and submitted to the city with each ROW permit application indicating that the service pole to which the network node is to be attached will safely support the load, in accordance with chapter 284, section 284.108.
 - (3) Height of attachments. All attachments on all service poles shall be at least eight (8) feet above grade, in accordance with chapter 284, sec. 284.108(a)(1)-(2), and if a network node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.
 - (4) Installations on traffic signal. Installations on all traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by chapter 284, sec. 284.056 and sec. 284.101(a)(3) and (b). Installation of network node facilities on any traffic signal structures shall:
 - a. Be encased in a separate conduit than the traffic light electronics;
 - b. Have a separate electric power connection than the traffic signal structure; and
 - c. Have a separate access point than the traffic signal structure.
 - (5) Installations on street signage: Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of network node facilities on any street signage structures that has electrics shall:
 - a. Be encased in a separate conduit than any city signage electronics;
 - b. Have a separate electric power connection than the signage structure;
 - c. Have a separate access point than the signage structure.

(Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-247. General aesthetic requirements

- (a) *Concealment.*
- (1) Concealment of network nodes and node support poles shall be required by the city in design districts with decorative poles and in historic districts pursuant to chapter 284, section 284.105.

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- (2) It is also the city's preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the ROW permit application.
 - (b) *New node support pole spacing.* New node support poles shall be at a minimum three hundred (300) feet from a utility pole or another node support pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.
 - (c) *Allowed colors.* Colors in historic districts and design districts must be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-248. Electrical supply.

- (a) Network provider shall be responsible for obtaining any required electrical power service to the micro network node, network node facilities, node support poles and ground equipment. The city shall not be liable to the network provider for any stoppages or shortages of electrical power furnished to the micro network node, network node facilities, node support poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or network provider of the structure, or for any other cause beyond the control of the city.
 - (b) Network provider shall not allow or install generators or back-up generators in the right-of-way in accordance with chapter 284, sec. 284.002(12)(b)(1).
- (Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-249. Insurance, indemnity, bonding and security deposits.

- (a) Insurance, bonding and security deposits shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
 - (b) Indemnity shall be in accordance with chapter 284, sec. 284.302, as provided for in chapter 283, sec. 283.057(a) and (b) of the Texas Local Government Code.
- (Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-250. Requirements in regard to removal, replacement, replacement, maintenance and repair.

- (a) *Removal or relocation by network provider.* Removal and relocation by the network provider of its micro network node, network node facilities, node support pole or related ground equipment at its own discretion, shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (b) *Removal or relocation required for city project.* Removal and relocation of network provider's micro network node, network node, node support pole or related ground equipment, or portion thereof required for a city project shall be in strict accordance with the city's rights-of-way management ordinance, and other

applicable ordinances, except to the extent not consistent with chapter 284, sec. 284.107, except as provided in existing state and federal law.

(Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-251. Installation and inspections.

- (a) Network provider shall, at its own cost and expense, install the micro network node, network node facilities, node support poles and related ground equipment in a good and workmanlike manner in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (b) The city manager, or designee, may perform inspections of any micro network node, network node, node support pole or related ground equipment located in the right-of-way shall be allowed in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.

(Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-252. Requirements upon abandonment of obsolete network node, network node, node support pole and related ground equipment.

Abandoned or obsolete micro network node, network node, node support pole and related ground equipment shall be removed in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.

(Ord. No. 2017-O-105, § 3, 9-5-17)

Sec. 28-253. General provisions.

- (a) Network provider's as built maps and records shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (b) Courtesy and proper performance of network provider's personnel, and contractors shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (c) Ownership of network node and related equipment shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (d) Tree maintenance shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (e) Signage shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (f) Graffiti abatement shall be in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.
- (g) Network provider shall restore and repair the rights-of-way from any damage to the right-of-way, or any facilities located within the right-of-way, and the property of any third party resulting from network

provider's removal or relocation activities (or any other of network provider's activities hereunder) in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.

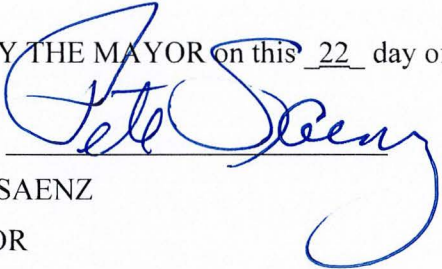
- (h) Network provider shall be responsible and liable for the acts and omissions of network provider's employees, temporary employees, officers, directors, consultants, agents, affiliates, subsidiaries, sub-network provider's and subcontractors in connection with the installations of any micro network node, network node, node support pole and related ground equipment, as if such acts or omissions were network provider's acts or omissions in strict accordance with the city's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with chapter 284.

(Ord. No. 2017-O-105, § 3, 9-5-17)

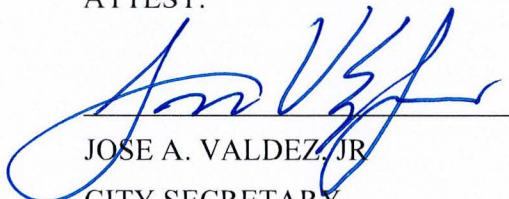
EFFECTIVE DATE

This ordinance shall take effect sixty days (60) from and after its passage, and publication of the caption, as the law and charter in such cases provide

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR on this 22 day of DECEMBER, 2022.

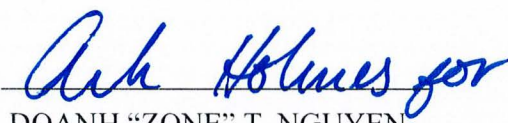
BY: 
PETE SAENZ
MAYOR

ATTEST:


JOSE A. VALDEZ, JR.
CITY SECRETARY



APPROVED AS TO FORM:


DOANH "ZONE" T. NGUYEN
CITY ATTORNEY

City Council-Regular

Meeting Date: 12/05/2022

Initiated By: Riazul Mia, Assistant City Manager

Initiated By: Riazul Mia

Staff Source: Karl J Hickle

SUBJECT

2022-O-212 Amending Chapter 28, Article IX Public Right-of-Way Management, Sections 28-164 through 28-239; it is desirable to clarify existing regulations that will provide greater control over the City of Laredo public right-of-way; clarification of regulations for work in City of Laredo public right-of-way to prevent / minimize damages, to ensure overall optimal conditions of the City of Laredo public right-of-way; to update penalty fees from minimum \$500.00 and maximum \$2,000.00 to minimum \$500.00 and maximum \$5,000.00 therefore to deter work without permit; restricting the transfer of issued permits from right-of-way utility user to other right of way utility user; raising the liability insurance amount from \$1,000,000.00 to \$2,000,000.00 to ensure a safer work environment and potential damages; to raise excavation bond from \$10,000.00 to \$25,000.00 to update cost of street repairs to ensure that damages be covered by an excavation bond; mandating pre-inspection, post-inspection and final inspection processes to monitor construction on the City of Laredo public right-of-way; re-defined "right-of-way user" to "right-of-way utility user", categorize right-of-way users based on excavation depth; update overtime hourly inspections fees cost from \$40.00 to \$150.00 Monday through Friday and fee cost from \$75.00 to \$250.00 Saturdays and Sundays to help maintain the safe condition of the City of Laredo public right-of-way; updating any typos and replacing language of director with Building Development Services Department director; providing that this ordinance shall be cumulative; providing a severability clause; providing for publication; and declaring an effective date.

PREVIOUS COUNCIL ACTION

ON November 28, 2022, City Council Approved Public Hearing and Introductory Ordinance.

BACKGROUND

On August 15, 2022, a discussion was introduced by council member by Dr. Marte Martinez regarding the recent water line break by a private contractor and how to avoid breaks in the future, and any other matters incident thereto. (Co-Sponsored by Council Member Vanessa Perez).

COMMITTEE RECOMMENDATION

N/A

STAFF RECOMMENDATION

STAFF RECOMMENDS APPROVAL TO AMENDING THIS ORDINANCE

Fiscal Year:

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

n/a

Attachments

Ordinance

CITY OF LAREDO ORDINANCE NO. 2022-O-212

PUBLIC HEARING AND DISCUSSION ON AMENDING CHAPTER 28, ARTICLE IX PUBLIC RIGHT-OF-WAY MANAGEMENT, SECTIONS 28-164 THROUGH 28-239; IT IS DESIRABLE TO CLARIFY EXISTING REGULATIONS THAT WILL PROVIDE GREATER CONTROL OVER THE CITY OF LAREDO PUBLIC RIGHT-OF-WAY; CLARIFICATION OF REGULATIONS FOR WORK IN CITY OF LAREDO PUBLIC RIGHT OF WAY TO PREVENT / MINIMIZE DAMAGES; TO ENSURE OVERALL OPTIMAL CONDITIONS OF THE CITY OF LAREDO PUBLIC RIGHT OF WAY; TO UPDATE PENALTY FEES FROM MINIMUM \$500.00 AND MAXIMUM \$2,000.00 TO MINIMUM \$500.00 AND MAXIMUM \$5,000.00 THEREFORE TO DETER WORK WITHOUT PERMIT; RESTRICTING THE TRANSFER OF ISSUED PERMITS FROM RIGHT OF WAY UTILITY USER TO OTHER RIGHT OF WAY UTILITY USER; RAISING THE LIABILITY INSURANCE AMOUNT FROM \$1,000,000.00 TO \$2,000,000.00 TO ENSURE SAFER WORK ENVIRONMENT AND POTENTIAL DAMAGES; TO RAISE EXCAVATION BOND FROM \$10,000.00 TO \$25,000.00 TO UPDATE COST OF STREET REPAIRS TO ENSURE THAT DAMAGES BE COVERED BY EXCAVATION BOND; MANDATING PRE-INSPECTION, POST-INSPECTION AND FINAL INSPECTION PROCESSES TO MONITOR CONSTRUCTION ON THE CITY OF LAREDO PUBLIC RIGHT OF WAY; RE-DEFINED "RIGHT OF WAY USER" TO "RIGHT OF WAY UTILITY USER", CATEGORIZE RIGHT OF WAY USERS BASED ON EXCAVATION DEPTH; UPDATE OVERTIME HOURLY INSPECTIONS FEES COST FROM \$40.00 TO \$150.00 MONDAY THROUGH FRIDAY AND FEE COST FROM \$75.00 TO \$250.00 SATURDAYS AND SUNDAYS TO HELP MAINTAIN THE SAFE CONDITION OF THE CITY OF LAREDO PUBLIC RIGHT OF WAY; UPDATING ANY TYPOS AND REPLACING DIRECTOR WITH BUILDING DEVELOPMENT SERVICES DEPARTMENT DIRECTOR.

L-18

Item in a proceeding styled The Estate of Melissa Ann Palacios-Palino, Deceased, and bearing Cause No. 2023PB5000008L2, in the County Court at Law No. 2, Webb County, Texas, Sitting in Matters Probate.

The Court will hear the aforesaid Application or Determination of Determination of Heirship and for Letters of Independent Administration with Motion to Appoint Attorney Ad Litem at 10:00 A.M. on the first Monday after the expiration of 10 days, exclusive of the day of publication, from the date this citation is published, which will be the 31st day of March, 2023, in the courtroom of the County Court at Law No. 2, located at the Webb County Justice Center, 4th Floor, at 1-110 Victoria Street Suite 404, of Webb County, in Laredo, Texas.

All persons interested in the aforesaid estate are commanded to appear at or before the time set for said hearing by filing a written contest to or answer to said Application for Determination of Heirship and for Letters of Independent Administration with Motion to Appoint Attorney Ad Litem should they desire to oppose or contest it.

Said written contest or answer shall be filed in the office of the County Clerk of Webb County, Texas in Laredo, Texas.

The officer serving this citation shall, in compliance with the law, serve it by publication once in a newspaper of general circulation in this, the county in which such proceeding is pending, for not less than ten (10) days before the return day hereof, exclusive of the day of publication, and the date of publication said newspaper bears shall be the day of publication.

If this citation is not served within 90 days after the date of issuance, it shall be returned unserved.

Issued and given under my hand and seal of said Court in Webb County, Texas, on this 27th day of March, 2023.



Webb County Clerk
County Clerk, Webb County, Texas
110 Victoria St., 4th Floor, Laredo, Texas 78040
By Deputy: *[Signature]*

L-12

water supplies available from the Rio Grande for the Utilities Department. Copies of the specifications may be obtained from the Finance Department - Purchasing Division, 5512 Thomas Ave., Laredo, Texas 78041 or by downloading from our website: www.ci.laredo.tx.us or through <https://cityoflaredo.ionwave.net/Login.aspx> Proposals will be received at the City Secretary Office, 1110 Houston St. 3rd floor, Laredo, Texas 78040 until 5:00 P.M. on April 18, 2023, and all proposals received will be opened and publicly acknowledged at 11:00 AM at the Office of the City Secretary on April 19, 2023.

Hand delivered proposals are to be submitted in a sealed envelope clearly marked:

Proposal: Supplemental Water Supply Availability - Utilities Department FY23-042

Proposals can be downloaded and submitted through Cit-E-Bid: <https://cityoflaredo.ionwave.net/Login.aspx>

Hand Delivered:
City of Laredo - City Secretary
C/O Jose A. Valdez Jr.
City Hall - Third Floor
1110 Houston Street
Laredo, Texas 78040

The City of Laredo reserves the right to reject any and all proposals, and to waive any minor irregularities.

WITNESS MY HAND AND SEAL, ON THIS 20th DAY OF MARCH 2023

[Signature]
Jose A. Valdez Jr.
City Secretary

L-79



EXECUTIVE

The Laredo Chamber of Commerce is seeking an Administrative officer. This position will be responsible for the administration and

- Key Responsibilities**
- Management of staff
 - Fundraising
 - Membership services
 - Government Affairs
 - Represent the business community

- Key Qualifications**
- 5 to 10 years experience
 - Background in management
 - Ability to multitask
 - Experience in public relations
 - Excellent oral and written communication skills
 - Experience in grant writing

Position Requirements
BA Degree or equivalent experience. Bilingual English/Spanish preferred.

FOR FULL INFORMATION VISIT
www.laredochamber.com
Submit resume to:
chamber@laredochamber.com

Laredo Morning Times



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