

**City of Eugene**

**Department of Public Works  
Policies and Procedures**



**Utility and Right-of-Way Permits,  
Construction Within and Use of the Public Way**

**Current Edition: January 14, 2004**

**Prepared by:  
Traffic Operations  
Public Works Maintenance**



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# **CITY OF EUGENE**

## **Department of Public Works Policies and Procedures**

### **Utility and Right-of-Way Permits Construction Within and Use of the Public Way**

#### **Section 1: GENERAL.**

The provisions herein shall go into effect January 14, 2004.

#### **1.A AUTHORITY.**

This operational policy and procedure document was prepared and enacted under the administrative and rule-making authority granted the City Manager by Section 2.019 of the Eugene Code, 1971 and the authority granted the City Engineer by Section 7.007 of the Eugene Code, 1971.

#### **1.B INTRODUCTION.**

Street rights-of-way and public utility easements (PUE) are part of the public way and intended for the use of all citizens for vehicular and pedestrian movement, access to private property and the delivery of essential utility, fire, police, and transportation services. Section 7.007 of the Eugene Code, 1971 charges the City Engineer with the responsibility of protecting the public's rights within the public way for these purposes. That responsibility is discharged in part by controlling construction and special uses of the public way through the issuance of permits. Section 7.302 of the Eugene Code, 1971 specifies that the City Manager issue administrative rules related to construction within and use of the public way. This manual has been adopted as a part of Administrative Rule R-7.302 under the rule-making authority granted the City Manager.

The primary concern when exercising this authority is to prevent personal injury, property damage and inconvenience to the public resulting from improper construction practices and right-of-way uses by contractors, public utilities, public agencies, and property owners. The objective is to accomplish this without discouraging reasonable requests for public and private improvements and special uses of the public way.

In this document the pertinent section of the Eugene Code, 1971 is cited at the end of each paragraph where a Code requirement is referenced, by use of the notation "EC" followed by the applicable section number from the Code. References in this document to the "Eugene Code", "Code" and "EC" refer to the Eugene Code, 1971 which contains provisions of ordinances enacted by the Eugene City Council. Additional requirements for work in the public way are contained in Administrative Rule R-7.302, adopting this Manual and to which a copy hereof is appended as Exhibit A. The wording of this manual and the Eugene Code and Administrative Rule are not identical; in case of conflict between this manual and the Eugene Code or Administrative Rule, the Code or Rule shall control. Also herein, the Code's use of the title "City Engineer," referring to the Director of Public Works, has often been changed to reflect the working title of the position to which the particular working responsibility or authority has been delegated.

## **1.C UTILITY NOTIFICATION AND COORDINATION ORGANIZATIONS.**

The City of Eugene participates in several organizations at the State and local level which promote utility coordination and damage prevention activities. The Oregon Utility Coordinating Council (OUCC) is a voluntary group of utility, construction, governmental, and other interested parties dedicated to the prevention of infrastructure damage and to the orderly planning and installation of utility infrastructure. Members of the OUCC have typically been selected to represent their respective companies or agencies to the local utility coordinating councils which make up OUCC. The Lane Utility Coordinating Council (LUCC) is the local council of which the City of Eugene is a member. The local councils elect delegates to the OUCC to insure adequate representation of all areas and utility activities throughout the state. Since the coordinating councils are voluntary organizations, their actions are considered recommendations and not binding on any member organization.

The LUCC meets once a month for a general meeting of the membership. The membership attending is encouraged to participate by bringing to discussion any item of individual or general interest in the area of utilities and underground facilities. This provides a local forum for addressing issues and concerns related to public way construction, coordination, and damage prevention.

The utility coordinating councils, member agencies, and affected construction and excavation contractors have worked to establish a state-wide utility notification center whose purpose is to provide a convenient and consistent mechanism by which excavators can notify operators of underground facilities of planned excavation work, placing "locate requests" prior to excavation. Through this notification system, utility operators are able to mark the location of their underground facilities in the area of a proposed excavation, informing and coordinating with the excavator to prevent damage and avoid service disruptions. Excavators, including city agencies, wishing to place locate requests may do so by telephoning the Utility Notification Center at 1-800-332-2344. General information on the Utility Notification Center may be obtained at [www.callbeforeyoudig.org](http://www.callbeforeyoudig.org).

Recognizing the complexity of underground utility networks and the public's financial and safety interests in utility coordination, the 1995 Oregon Legislature established the Oregon Utility Notification Center (OUNC) as a public corporation with rule-making authority of a state agency. A key provision of the legislation creating the OUNC was a requirement that all operators of underground facilities subscribe to the center by July 1, 1997. Prior to this time, the utility notification system was voluntary and not all underground facility operators participated in the system. As such, excavators could not always be assured that all operators of underground facilities in the area of a proposed excavation were notified and were thus responsible for individually notifying other possible facility operators. If a facility whose operator was not notified is damaged, the excavator might be held liable for any damage which the excavation caused.

The City of Eugene has subscribed to the utility notification center since its early development and maintains an electronic notification system connection at the Maintenance Division office at 1820 Roosevelt Boulevard, Eugene, OR 97402. The Utility Locator position is responsible for receiving and distributing notifications to the various divisions of the city responsible for underground facilities.

## **1.D THE INSPECTOR.**

### **1.D.1 General.**

"Inspector" is a term used to describe those individuals employed by the City to perform the duties described herein. Inspections of the permittee's work by the Inspector shall in no way relieve the permittee from the obligation of performing all work within the public way in strict accordance with the requirements of the City of Eugene Standard Specifications (*see* Section 3.A), provisions of this manual, the Eugene Code, recognized national standards, related administrative rules, and specific permit conditions. Nor shall this inspection relieve the permittee of the permittee's responsibility to perform any required corrections in case the work is later found deficient.

The Eugene Code places the responsibility on the City Engineer of seeing that all conditions and specifications for work within the public way are satisfactorily performed in line with sound engineering practice. Responsibility for the inspection, permit review and facility locates for the construction-related activities of private parties, licensees, franchised utilities, and EWEB within the public way has been delegated by the City Engineer to the Inspector.

In general, the primary function of the Inspector is to see that construction work performed within the public way is performed in the best interest of the City of Eugene and the general public. When work is not being performed in a manner acceptable under the Eugene Code, provisions of this manual, adopted rules and standards, or specific permit conditions, the Inspector will so inform the permittee's representative in charge and require the necessary corrections be made.

The Inspector shall maintain accurate records of the number of inspections each month, locates performed, requests for locates, right-of-way work or cut permits issued and incidents of damage to City facilities. Licensees, franchised utilities, and EWEB submit monthly reports of all right-of-way cuts made by their staff or contractors and these records are used by the Inspector to submit statistics to the LUCC and the OUCC to assist in tracking utility coordination trends state-wide.

In some situations, testing of materials and installation methods, including but not limited to compaction testing, may be required by the Inspector. These inspections shall, at least meet the current minimum requirements adopted by the City for public works projects. All costs incurred for private inspections, reporting, and testing required by the Inspector are the sole responsibility of the permittee.

### **1.D.2 Authority.**

The Inspector has the authority to order changes in construction technique or issue "stop work" orders for un-permitted work, non-compliance with the permit conditions or associated traffic control plans, Standard Specifications (as referenced later herein), or if hazardous or improper methods are used. The Inspector is responsible for field review of the contractor's temporary traffic safety measures. These measures shall be designed to maintain the flow of traffic, and to protect vehicles, bicycles, pedestrians, and workers during the length of the project. The Inspector may require additional traffic control measures at any time the Inspector feels a reasonable safety issue exists. Inspectors schedule inspections to monitor compliance with the established Standards. The contractor's work shall be inspected for progress, proper location and depth, width of pavement cut, temporary placement of excavated materials, adequately compacted backfill, proper temporary patching and permanent surface restoration, and, when complete, the work site cleaning and restoration to its original condition.

The Inspector has the authority to provide interpretation and, when necessary, specific enforcement of the Eugene Code, City Standard Specifications, Traffic Control Standards (Traffic Control Standards include the editions then in effect of: Part VI of the Federal "Manual on Uniform Traffic Control Devices" (MUTCD); the Oregon Department of Transportation's "Short Term Traffic Control Handbook"; and the City of Eugene "Work Zone Traffic Control Standards Supplement"), and other related standards, policies and rules, including those contained herein. This authority is applicable to all work conducted within the public way and for those people or agencies undertaking such work.

## **1.E UTILITY LOCATING.**

### **1.E.1 General.**

The "Utility Locator" is a term used to describe those individuals employed by the City to perform

the duties described herein. The Utility Locator is responsible for overall coordination of underground utility locating services provided by the City. The Utility Locator shall maintain accurate records of the locate requests received each month, locates performed, and number of each facility type located.

In addition to the Utility Locator, other City staff including, but not limited to the Inspector may also provide utility locate services. Other staff who provide locate services shall provide the necessary information and data to the Utility Locator for the purpose of maintaining complete, accurate data.

The Utility Locator regularly monitors locate requests placed through the Oregon Utility Notification Center (OUNC) to the Maintenance Division. The Utility Locator periodically reviews the OUNC information (usually at the beginning, middle, and end of each day) for requests by other agencies for the location of City-owned underground facilities. This allows the Utility Locator to coordinate locate service as appropriate and provides a mechanism for monitoring excavation work proposed within the public way.

The Utility Locator provides locate service for certain City-owned facilities. Locating services are provided in conformance with Oregon Revised Statutes (ORS) and related Oregon Administrative Rules (OAR) as adopted by the OUNC in the Standards Manual. Upon receipt of the 2 business day prior notice and before commencement of the work, the Utility Locator shall endeavor to locate those "locatable" City owned facilities within the proposed work area which are on record (*i.e.*, wastewater collection system, stormwater drainage system, street light facilities, and traffic signal facilities). The centerline and, when exceeding two inches in width, the size of the facility should be marked. Where centerline marking is not practical, offset marking or providing as-constructed drawings may be acceptable.

In accordance with the adopted color code, the located City facilities shall be temporarily marked using green paint for wastewater and stormwater lines, and orange paint for street light and traffic signal facilities. Where the use of paint is not practical, a written description of the facility upon wood stakes or providing as-constructed drawings may be acceptable. Once the Utility Locator has marked the located City-owned facilities, the excavator is responsible for taking reasonable steps to maintain these marks through the life of their project.

### **1.E.2 Locate Coordination.**

Several other City work units respond to certain utility locate requests. Locate requests that may impact facilities maintained by the Parks and Open Space Division are forwarded to appropriate staff in that division (*e.g.*, irrigation systems). Locate requests that may impact facilities maintained by the Wastewater Division are forwarded to appropriate staff in that division (*e.g.*, wastewater pump stations, force mains, etc.). Locate requests that may impact facilities maintained by the Airport Division are forwarded to appropriate staff in that division (*e.g.*, excavations within or adjacent to airport property). Locate requests that may impact facilities maintained by the Facilities Division

are forwarded to appropriate staff in that division (e.g., power conduits in parks, excavations adjacent to City-owned buildings). Locate requests that may impact facilities maintained by the Information Services Division are forwarded to the appropriate staff in that division (e.g., City communication lines), and the appropriate division responds.

### **1.E.3 Requests for Emergency Locates.**

**An emergency locate should not be requested unless it involves emergency repairs immediately required to an existing facility and meets the definition of “emergency” contained in the OUCC Standards Manual.** The City of Eugene attempts to regularly monitor incoming locate requests; however, full-time monitoring is not currently practiced. During normal business hours, emergency locate requests for City facilities made through the OUNC are received and dispatched through the Maintenance Division. The notification center typically calls the City to ensure that emergency locate requests have been received. Between the hours of 8:00 a.m. and 5:00 p.m., emergency locate requests are forwarded to the Utility Locator. Emergency locate requests received outside this time period are placed through the OUNC who then notify the City’s after-hours dispatch by telephone at 682-5111. Response to after-hours emergency locate requests is coordinated by the Maintenance Division’s on-call supervisor. Emergency requests for locates involving facilities located by other work units will be forwarded to the appropriate personnel.

### **1.E.4 Internal Public Works Locate Requests For Maintenance Activities.**

Locate requests placed with the Utility Notification Center for the various types of **maintenance** work to be performed by City of Eugene Public Works staff shall be treated in a manner similar to those locates performed for agencies or individuals issued a right-of-way permit, with the following exception: Because the research has already been completed, Maintenance Division personnel do not research the existing underground facilities. Upon specific request, the Utility Locator will research and field-locate all wastewater, stormwater, traffic signal, and street light facilities for maintenance work to be performed by Maintenance Division crews.

## **Section 2: PERMITS FOR WORK WITHIN THE PUBLIC WAY.**

### **2.A GENERAL.**

No person, franchised utility, City-licensed facility operator, or municipal utility shall perform work affecting the public way without first obtaining the appropriate permits required by the City.

As used herein, "work affecting the public way" includes, but is not limited to, installation, or construction of any structure, pipe, pole, conduit, culvert, or facility, including a communications facility as defined in EC 3.005, or other wire line utilities in or on a public way, and any

construction, reconstruction, grading, oiling, repair, opening or excavation of a public way for any purpose; but does not include the construction of public improvements performed under a contract executed by the City Manager or work performed by City employees under the City Manager's direction. *See* EC 7.290(1).

Issuance of a permit for work within the public way does not relieve the permittee from the responsibility to obtain other necessary permits and to conform to other regulatory requirements. In certain areas of the public way, location restrictions, setbacks, natural resource preservation, wetland, or other local, state, or federal regulations may apply. For example, a separate erosion prevention permit may be required, in addition to a right-of-way cut permit, for work performed in the public way. *See* EC 6.635(1). If an erosion permit is required, no other permits will be issued prior to the approval of the erosion permit, Administrative Rule R-6.645-F-(5).

Individual permits that are included in the category of street and right-of-way work permits include, but are not limited to, Right-of-Way Cut Permits, Right-of-Way Use Permits, Utility Right-of-Way Use Permits, Tree Removal Permits, Traffic Control Permits, and Temporary Surfacing Permits.

Work within the public way that is to be performed under a contract executed by the City Manager must be reviewed by Public Works staff and a permit must be issued to the Department managing the contract. All associated fees shall be waived.

An individual right-of-way use permit is required, unless otherwise specified in a current annual blanket permit, for an activity which affects the public way and meets any of the following conditions:

1. The activity involves the removal, modification, or replacement of any City-owned facilities (*e.g.* street pavement, trees, concrete curbs, sidewalks, or bike path).
2. The activity involves the relocation or modification of the existing facility (*e.g.* changing the foot line or elevation of underground facilities or moving existing poles or guy lines to a new location).
3. The activity involves the cutting of any root 2 inches in diameter or greater of a street tree, or the cutting of a branch 2 inches in diameter or greater of any street tree.
4. The activity involves installing more than 100 linear feet of pipe, conduit or cable.
5. The activity includes closing a lane of traffic on an arterial or collector street, or any street within the downtown core area.
6. Excavation of existing material or placement of fill materials or aggregate in the right-of-way.

7. The installation of facilities above or below ground for the purpose of expansion or upgrade.
8. The activity involves installing facilities, cable, wire, or lines in an existing conduit installed by another utility.

Permit fees, in the amounts set by the City Manager, shall be charged for all permits issued for work within the public way unless otherwise noted herein. The amount of the fee shall be sufficient to recover the City's costs related to processing the permit and inspection activities during and after the work. *See* EC 7.300.

#### **2.A.1 Approval and Issuance of Permit.**

Upon completion of review and determination that the proposed work is appropriate, the City Engineer or designee shall approve the permit application. After approval, and upon receipt of the required fee(s), deposit, performance bond, and proof of contractor's license and bond, the permit shall be issued. *See* EC 7.295(3).

#### **2.A.2 Required Notification to the City.**

The permittee shall notify the Inspector by calling the contact number identified on the permit at least 2 business days prior to commencement of work within the public way. "Business day" means any day other than a Saturday, Sunday, or legal holiday. (Placement of the notification through use of the Oregon Utility Notification Center will be acceptable **if** the notice is for the actual commencement of work, not a notification requesting design information, and includes the proposed work location, type of proposed work, starting date, time, and the permittee's contact person's name and phone number.)

Franchised utilities, City-licensed facility operators, and municipal utilities planning to install a new facility, or perform a major facility upgrade within the public way, greater than 400 linear feet, shall provide notice to the City and all other utilities and license holders who are licensed or franchised to provide services within the project area. The purpose of this notification is to encourage collocation of facilities and minimize impacts on the public way by providing other utilities and license holders an opportunity to install facilities in a joint trench or to coordinate work along the same street segment. Notification timing and format will be determined by the initiating utility or licensee so long as the notification purpose and documentation requirements are met and are reasonable. Reasonable notification is considered to be at least 10 days advance notice excluding Saturday, Sunday, and legal holidays.

#### **2.A.3 Reports Required by the City.**

Franchised utilities, City-licensed facility operators, and municipal utilities must submit a daily report to the Inspector, in an agreed-upon format, no later than 9:00 a.m. of the work location for all

utility crews and sub-contractors' crews performing work in the public way.

Franchised utilities, City-licensed facility operators, and municipal utilities must submit a monthly report to the Inspector, in an agreed-upon format, no later than the tenth day of the following month for the following activities:

1. All active pavement cuts for which permanent restoration has not been completed.
2. All completed permits, including the completion date.

**2.A.4 Failure to Obtain Permit, Comply with Permit Conditions, or Comply with Reporting Requirements.**

Failure to obtain an approved permit prior to commencing work in the public way, failing to comply with permit conditions, or failing to provide required reports within stated time lines may result in any or all of the following:

1. Staff may calculate and collect fees from the responsible party for investigation, review, coordination, inspection, administrative duties, and overhead for any work commenced without an approved permit. At a minimum, the permit fee will be double the cost of the original permit fee without any associated joint trench discount.
2. Work commenced prior to obtaining an approved permit may result in workers being removed from the public way and a stop work order being issued to the responsible party to prevent any further work in the public way until an approved permit is obtained and fees are paid in full.
3. Failure to comply with permit conditions may result in workers being removed from the public way and a stop work order being issued to the responsible party to prevent any further work until a resolution acceptable to the City is reached. Non-compliance with permit conditions may also result in cancellation of existing permits and/or suspending the processing of future permit applications until a resolution acceptable to the City is reached.
4. Failure to provide required reports may result in staff calculating and collecting fees from the responsible party to recover staff resources expended in the researching, investigating, and obtaining necessary information.
5. Failure to pay required fees may result in cancellation of existing permits and/or suspending the processing of future permit applications until payment is received.

## **2.B ANNUAL PERMITS FOR MINOR RECURRING ACTIVITIES.**

Franchised utilities, City-licensed facility operators, and municipal utilities have the option of requesting an annual "blanket" facilities permit for individual service line installations, minor repairs to existing facilities, routine maintenance functions and similar recurring activities. The annual "blanket" facilities permit shall not cover the installation of facilities for expansion or upgrade beyond the activities specifically addressed in the blanket permit.

The written request for an annual permit shall be made to the Utility Permit and Inspections Supervisor at 1820 Roosevelt Boulevard, Eugene, OR 97402, by December 31<sup>st</sup> for the following year, and, at a minimum, shall contain the following:

1. Agreement that 2 business-days advance notice shall be provided to the City for all work to be performed under the blanket permit (notification may be provided through use of the Oregon Utility Notification Center **if** the notice is for the actual commencement of work, not a notification requesting design information, and includes the proposed work location, type of proposed work, starting date, time, and the permittee's contact person's name and telephone number).
2. Identification of the types of activities and scope of work (length and diameter sizes of service lines, etc.) requested to be allowed under the annual permit.
3. An agreement to submit a monthly report of all blanket permit activities and right-of-way cuts, and of each service installation or repair performed by the permittee's staff or by contractors working for the permittee.
4. The name and telephone number of a specific "contact person" who will be responsible for responding to City concerns regarding the permittee's field activities.

The request for an annual permit will be reviewed and approved, approved with conditions, or denied. Annual permits are subject to revocation if a facility owner fails to comply with the standards established by the City, these policies and procedures, or standards established by conditions of the permit or other local regulations.

Permit fees for annual permits include a processing component and a "per activity" component. The permit processing component is payable upon approval of the annual permit. The "per activity" component is calculated monthly or periodically, based on the number of activities performed under the annual permit for which a City response (*e.g.*, site review, inspection) was performed, and billed to the permittee.

## 2.C REVOCABLE PERMITS FOR PRIVATE FACILITIES.

A revocable permit may be issued to permit placement and operation of private facilities within the public way which is not authorized by an existing franchise or license. As with all right-of-way permits, the City reserves the right to "revoke" or cancel the permittee's permission to use the public way at a later date. This type of permit is typically used for placement of a private structure or facility that serves an individual property, site, or business and is not placed for the provision of services to others. Detailed questions concerning revocable permits should be addressed to the Engineering Division personnel at the Permit and Information Center located at 99 West 10<sup>th</sup> Avenue, Eugene, OR 97401.

Unless otherwise specified in a license or franchise agreement, or by the issuance of a temporary surfacing permit (TSP), a revocable permit shall be obtained prior to the placement of any private facility upon, over or under the public way. The permittee shall be required to pay all established permit fees and user fees. A revocable permit, by itself does not allow for construction to be performed or for work to occur in the public way. **Issuance of a revocable permit does not relieve the permittee from the obligation to obtain any other required permits.** Examples of other permits that may be required are: building, right-of-way cut, tree removal, and wastewater or stormwater connection. Any revocable permit that entails excavation within the public way shall, at a minimum, also require a right-of-way cut permit.

Revocable permits that involve the placement of underground facilities shall inform the permittee of the requirement that the permittee subscribe to the Oregon Utility Notification Center and respond to requests from underground excavators for the field location of the permittee's facilities. Failure to maintain this subscription may result in the permit being revoked.

Revocable permits shall be subject to conditions specified by the City Engineer or designee. All work in the public way associated with installation or operation of a private facility within the public way shall conform to permitting and work standards included herein including, but not limited to, all standards for temporary traffic control, construction practices, and technical provisions included herein. *See EC 7.302.*

A private facility or structure placed in the public way prior to receiving approval by the City Engineer may result in a requirement to remove the structure or facility. If it becomes necessary for the proper or necessary public use of any public way that any facility installed or constructed be removed or relocated, the City Engineer or designee shall give written notice to the owner of the facility to remove the same within a reasonable time. If the owner fails to comply with such notice, the City may remove or relocate the facility and charge the costs of removal or relocation to the owner. *See EC 7.302(1).*

### **2.C.1 Application.**

Application to use the public way under a revocable permit may be made to the staff of the City Engineer at the Permit and Information Center at 99 West 10th Avenue, Eugene, OR 97401.

### **2.C.2 Plans and Drawings.**

Due to the large variety of uses for revocable permits, the plans and drawings required for a permit will be addressed on a case-by-case basis. Typically, in addition to required plans and drawings, a legal description must be provided of the property associated with the private facility proposed to be placed in the public way. Contact the staff of the City Engineer for specific requirements.

### **2.C.3 Review.**

Engineering Division personnel have the responsibility of entering the permit information into a permit tracking system, routing the applications to the various reviewing divisions, and then issuing the permit, issuing the permit with conditions, or denying the permit. If a right-of-way cut or work permit is required in addition to the revocable permit, the right-of-way cut or work permit must be reviewed and approved by the Inspector from Maintenance Planning prior to the issuance of the revocable permit.

The amount of time needed by the City to review a revocable permit varies greatly depending upon the complexity of the individual permit situation.

A copy of all issued permits shall be forwarded to the Inspector in Maintenance Planning to allow inspection of the right-of-way restoration and temporary traffic control measures used.

## **2.D STREET AND RIGHT-OF-WAY WORK PERMITS.**

### **2.D.1 Application.**

For franchised utilities, City-licensed telecommunication and facility operators, and municipal utilities, application to perform work within the public way shall be made to the Maintenance Division at 1820 Roosevelt Boulevard, Eugene, OR 97402. All other applicants for permits to perform work in the public way shall make their applications through Public Works staff at the Permit and Information Center at 99 West 10<sup>th</sup> Avenue, Eugene, OR 97401. Applications shall be made on a standard form provided by the City. All applicable portions of the application form and standard attachments must be completed prior to submittal to the City. Incomplete applications will not be processed and will be returned to the applicant for completion and re-submittal.

Application for a permit to perform work in the right-of-way must be made by a representative of

Utility & R/W Permit Manual

Exhibit A - 12

C:\Documents and Settings\cedplsb\Local Settings\Temporary Internet Files\OLK69\58-03-19-F Exhibit A.wpd(11/07/03)

the owner or operator of the facility being installed or upon which maintenance is being performed. Persons or companies working under contract to the facility owner or operator are not considered representatives of the facility owner and, as such, will not be allowed to apply for or be granted a permit.

Unless a special exception is granted, applications for permits to perform work in the right-of-way involving excavation upon an improved street shall not be granted where the pavement is less than 5 years old. *See* EC 7.295 (2).

### **2.D.2 Plans and Drawings.**

Applications for a street right-of-way work permit shall be accompanied by such drawings, surveys or plans as deemed necessary by the City Engineer. *See* EC 7.305.

Generally, the permittee will be required to supply 2 sets of complete and accurate plans and/or drawings depicting the proposed facility installation. Three copies will be made to allow 1 for the Inspector, the office file of the permittee and the permittee's field crew performing the work.

In those cases where the proposed work falls within the area of a current City improvement project (subdivisions, wastewater collection system or stormwater drainage system construction, street paving, etc.) 4 copies will be made of the plans and/or drawings. The fourth set shall be forwarded to the Engineering Division Project Manager assigned to the City improvement project for placement in the project office file.

All plans and/or drawings shall, at a minimum, contain the following elements:

- North arrow;
- Reference to work area by accurate dimensions to a known intersection center-point, lot corner, or to a known City manhole if an intersection center-point is not available;
- Appropriate scale, both vertically and horizontally, and designating with accurate dimensions the portion of the public way proposed to be used;
- Identification of the "work zone" (considered to be 10 feet at a minimum around the perimeter of the proposed excavation or facility placement) and including staging and material storage areas within the public way;
- Accurate location of curbs, sidewalks, and driveways within the proposed work zone.

Additional details and/or information may be required on any plan which is deemed insufficiently clear or accurate by City staff for necessary review, coordination, or inspection.

If the critical root zone of a street tree is located within the proposed work zone, the applicant shall so indicate on the permit application, and the plans shall accurately depict the areas of the work zone which may impact street trees, along with the size, location, and species of each tree within such

areas. The critical root zone is the area surrounding a tree trunk, having a radius of 18 inches times the diameter breast height of the tree trunk. A calculation of the percentage of the critical root zone impacted by the proposed activity may be required for each street tree impacted.

If the work zone or portions thereof are outside the public right-of-way but within a public utility easement, the plans shall show any locations where the work zone falls within or is directly adjacent to natural resource protection areas (*e.g.* wetlands, rare plant areas, conservation zones, individual trees designated for protection, etc.).

### **2.D.3 Review.**

Before each permit is issued, the applicant's plans are evaluated by designated City staff who will research the location and size of all known City-owned facilities that have records on file (*e.g.* stormwater and wastewater, telecommunications, curbs, etc.), and draft the facility location on each set of the plans provided by the permittee. Staff will also evaluate, for conflicts with location and grade, the permittee's proposed facility installation in relation to planned future City facility placements. Staff have the responsibility of reviewing applications for completeness, determining if an associated erosion permit or urban forestry review is required, and entering the permit information into the computer plan tracking program.

If after initial review of the application the plans are found to be unclear, incomplete, or inaccurate, the application and plans will be returned to the applicant for correction and re-submittal.

Staff of the Maintenance Planning Section perform the final review of a permit application. Staff will evaluate proposed utility line construction techniques, their proposed location upon, above, or below the public way, and proximity to existing and proposed City owned facilities. The objectives of this evaluation are to determine conformance to policies and standards affecting work within the public way, and to prevent or minimize interruption of services to the public due to a permittee unknowingly excavating and damaging City infrastructure.

The Inspector will perform a field review of the area for the proposed work. Special note will be made of any unusual or unique conditions observed in the field. Specific items to note shall include:

**Landscaping** - Street and planting strip beautification is an area of great concern to the Inspector. Any existing special landscaping will be documented. Upon completion of the proposed work, the landscaping shall be returned to a condition as near as possible to, if not better than that which existed before such work began.

**Trees** - Overhead work may conflict with a tree's branches, and underground work with the tree's roots. Trees are a valuable City resource and every effort shall be taken to avoid any damage to a tree. Staff from the Urban Forester's office shall be notified and requested to comment whenever the proposed work zone falls within the critical root zone of a street tree.

Special conditions for tree protection and damage prevention shall be noted on the permit application or associated plans. In addition, permit conditions may include replacement or restitution for any tree(s) removed for utility work in the public way. Typically, a separate tree removal permit must be obtained from the Urban Forester's office prior to removal of a street tree. Construction activity can often result in the unintended destruction of a tree. Addressing tree protection needs in the plan development and review process can help avoid potential tree code violations and possible enforcement actions.

**Existing Utilities** - Prior to issuing a permit, the Inspector performs a site visit. The drawing provided by research staff is compared to what can be visually located in the field. Any discrepancies in public infrastructure location are noted, verified, and corrected prior to permit issuance. Discrepancies in infrastructure location shall be reported by the Inspector to Engineering Division personnel who will make the necessary corrections to existing records.

Where needed, the Inspector shall request the Traffic section to locate traffic signal and illumination conduits. The Inspector will note any conflicts with the proposed work and will specify requirements for the applicant to coordinate resolution of such conflicts with the Traffic section. A copy of such permit requirements will be forwarded to the Traffic section.

Where needed, the Inspector shall request the Information Services Division (ISD) to locate City communication lines. The Inspector will note any conflicts with the proposed work and will specify requirements for the applicant to coordinate resolution of such conflicts with ISD personnel.

**Existing Irrigation Systems** - Where existing City-owned irrigations systems appear to be in conflict within the area of proposed work, the Inspector shall determine the extent of the conflict and inform the responsible City personnel of the proposed work.

Where privately owned irrigation systems are observed the permittee shall be responsible for notifying the owner. The permittee is responsible for leaving the privately owned irrigation system in a condition equal to the condition existing prior to the permittee's activities.

**Abutting City Property** - When the proposed work area abuts City-owned property, excluding parks and Airport property, the Inspector shall notify a representative of the Public Works Facilities Division and ask for comment on the proposed work.

When the proposed work area abuts park land, the Inspector shall notify a Parks Maintenance Section representative of the proposed work. Parks Maintenance personnel shall either locate their facilities to identify potential conflicts or provide the Inspector with the necessary plans in order to perform the permit review.

When the proposed work area abuts the municipal airport, the Inspector shall notify Airport Division personnel. Airport personnel shall either locate their facilities or provide the Inspector with the necessary plans in order to perform the permit review.

Staff understands that time is of the essence for permit issuance. Generally, the permit review process should be completed and the permit issued within 10 working days from the date of application. Permits involving large projects, special conditions, or requiring review of other City divisions may take additional time to review. Upon completion of the review process, Maintenance Planning personnel shall list any required modifications, and if appropriate, sign and issue the approved permit.

Unapproved permits shall be returned to the applicant with a written statement listing the City's concerns and reasons for the permit's denial. Also where possible, suggestions for changes which would result in the permit being approved will be listed.

The applicant for a permit that is denied shall have the right of appeal to the City Manager. *See EC 7.295(5). (See EC 2.021 for appeal procedures.)*

Except as outlined in Section 2.E below, permits shall not be issued "after the fact" for work performed without a permit or prior approval of the Inspector. The facility owner shall be liable for all fees and costs associated with research, investigation, coordination, inspection, and data management performed by City staff, including overhead, which may be required as a result of any un-permitted work.

Permit fees for individual right-of-way cut or work permits shall be paid upon issuance of the permit, unless the applicant has previously made arrangements to be billed by the City. Permit fees will be calculated by the City staff issuing the permit pursuant to the fee schedule set by administrative order of the City Manager.

Because permit review and inspection activities can be more efficient for joint trench installations involving multiple utilities in a joint trench, a matrix of graduated permit fees is included in the fee schedule. Using the permit fee matrix, the Inspector shall determine the individual permit fee which most appropriately reflects the characteristics of the proposed work.

#### **2.D.4 Expiration.**

Right-of-way cut or work permits shall be valid for a period not to exceed 180 days from the date issued. Work may not be performed under an expired permit. Permit renewals shall follow the same process as that used for a new permit.

Utility permits which have not expired may qualify for a single 180-day extension. Requests for permit extensions must be in writing and received by the Traffic Technical Team Supervisor at 1820

Roosevelt Blvd. Eugene, OR 97402, prior to the permit expiration date. Written extension requests must include the reason for the request. An extension request will be reviewed and approved, approved with conditions, or denied by the Traffic Technical Team Supervisor.

## **2.E EMERGENCY PERMITS.**

A permit (*i.e.* Right-of-Way Cut, Public Improvement, Revocable, Temporary Surfacing) is required for all work within the public way. However, when emergency repairs of an existing facility are necessary, work may commence prior to the application for a permit. If an emergency occurs during the normal working hours of the Maintenance Division, immediate verbal notice to the Inspector, Utility Permit and Inspections Supervisor, or Maintenance Planning Manager is required.

Where emergency repairs are necessary outside the normal business hours of the Maintenance Division, the Eugene Police Department (682-5111) should be notified if the work is within a street or alley and will necessitate a lane closure. If a representative of the Public Works Department is needed, upon request of the permittee, the Eugene Police Department will notify the "on-call" supervisor of the Maintenance Division. For emergency repairs that are likely to impact street trees, the Parks and Open Space Division (682-4800) must be notified and the Urban Forester consulted to determine impact to public trees.

Application for an emergency permit shall be submitted no later than the next working day following the emergency repairs. This application must clearly describe the nature of the emergency and the action the permittee has taken to date.

The site of any emergency work will be inspected at the Inspector's first opportunity. The Inspector will ensure that the permit process is followed, the work was acceptably performed, that no City facilities were damaged, and that the site was returned to a condition as good as, or better than, that prior to the work being performed.

## **2.F PERMITS FOR CITY OWNED-FACILITY.**

Although not required by the Eugene Code, Public Works Department policy also requires a permit to be obtained for work performed within the public way by or for all City departments other than the Public Works Department.

Requiring City departments to obtain a permit affords the various divisions of Public Works an opportunity to comment on how these facilities will affect their areas of responsibility and operations, as well as ensuring that all City-owned facilities placed within the public way have as-constructed drawings completed and submitted to the Engineering Division for recording and mapping purposes.

## **2.G PERMITS DURING PUBLIC IMPROVEMENT PROJECTS.**

Any utility installation or relocation within the public way that is being performed concurrently with a public infrastructure improvement and construction project requires a permit issued by the Maintenance Division prior to commencement of utility work.

### **2.G.1 City Engineered and Administered Projects.**

For permit work conducted in conjunction with City engineered or administered projects, the Inspector will verify that a utility right-of-way permit has been issued and that the Engineering Division project manager assigned to the project has copies of all issued permits and associated plans. The Inspector will perform inspections and respond to all locate requests during contract construction projects administered by the City until such time as the Engineering Division assigned personnel are on site. After Engineering personnel are on site, they will be responsible for any required utility inspections and locates until the project is substantially completed. After substantial completion, when assigned Engineering personnel are no longer on site, the Inspector will again be responsible. For projects that include street work, substantial completion requires completion of the final paving. Substantial completion for projects not involving street work will be determined by the Engineering project manager.

The Engineering Division project manager shall notify the Inspector in writing (by memorandum or electronic mail) whenever utility inspection and locate responsibilities for a project have been transferred to Engineering personnel, when an Engineering inspector is assigned to on-site inspection, and when responsibilities transfer back to the Inspector (upon substantial project completion). At the time of project substantial completion, the Inspector shall be provided documentation of all field design changes in underground facilities which occurred during the construction project. The Inspector may be required to respond to locate requests after the project is completed, but prior to availability of as-constructed drawings.

It is the Inspector's responsibility to inspect the relocation of a utility's facilities due to a City contract construction project, but outside the boundary of the project. Engineering Division personnel shall be responsible only for the inspection of facility relocation within the limits of the City contract construction project.

### **2.G.2 Privately Engineered Public Improvement Projects.**

Provisions for utility permits and inspection for City engineered and administered projects shall apply to privately engineered public improvement projects; except that Engineering Division personnel inspect only utility crossings installed concurrent with public improvements inspected by the Engineering inspector. All other right-of-way permit related inspection activities on such projects will be performed by the Inspector.

## **2.H TEMPORARY SURFACING PERMITS.**

**SCOPE:** The City of Eugene has adopted code provisions and administrative rules that specify the standards and procedures for fully improving a street within a public right-of-way to City standards and acceptance by the City for maintenance. However, to facilitate better access to their property, an abutting property owner(s) may wish to make minor improvements in the public right-of-way short of those full improvements to City standards. While street improvements to full City standards are recognized as the preferred long term solution, often there are issues outside the control of the abutting property owner that makes a less-than-full improvement a viable option.

The City has established these standard processes allowing an abutting property owner to prove that full improvement is not a viable option and that a better alternative is the granting of a temporary surfacing permit to the abutting property owner(s) to make minor and temporary access improvements within the public right-of-way until such time as a full improvement becomes possible.

A temporary surface permit shall be obtained prior to the placement of any private surface upon, over or under the public way. The permittee shall be required to pay all permit fees and user fees. Issuance of a temporary surfacing permit does not relieve the permittee from obtaining any other permits that may be required. Examples of other permits that may be required are erosion, tree removal, and wastewater or stormwater connection. As with all right-of-way permits, the City reserves the right to revoke or cancel the permittee's permission to use the public way at a later date.

Temporary surfacing permits shall be subject to conditions approved by the City Engineer or designee including, but not limited to, standards for temporary traffic control, construction practices, and right-of-way restoration included herein. *See* EC 7.290

**The City will not perform maintenance activities for temporary surfacing installed pursuant to this permit process.**

### **2.H.1 Application.**

Application to use the public way under either a "Type One" or "Type Two" temporary surface permit may be made to Surface Operations staff at either the Maintenance Division Office, 1820 Roosevelt Boulevard, Eugene, OR 97402 or the Permit and Information Center, 99 West 10<sup>th</sup> Avenue, Eugene, OR 97401.

Applications shall be made on a standard form provided by the City. All applicable portions of the application form and standard attachments must be completed prior to submittal to the City. Incomplete applications will not be processed and will be returned to the applicant.

Application for a temporary surface permit must be made by the owner or a representative of the

owner or operator of the facility being installed. Persons or companies working under contract for the facility owner or operator are not considered representatives and will not be granted a temporary surfacing permit without written permission from the owner or operator.

### **2.H.2 General Criteria for all Temporary Surfacing Permits.**

The following criteria shall apply to all Temporary Surfacing Permits:

1. Drainage and Maintenance Responsibilities - No Temporary Surface Permit (TSP) shall be issued without the applicant providing a written statement that acknowledges that the maintenance of the improvement and the liability for any damage from drainage problems associated with the improvement are the applicant's personal responsibility.
2. Work on Private Property - No TSP shall be issued that requires any work to be performed on private property without a written statement granting permission from the property owner of record.
3. Tree Removal - No trees shall be removed without the issuance of the TSP and a Tree Removal Permit, if required. Tree removal permits are required for the removal of any street tree (heritage street tree removal can only be authorized by the City Manager for the protection of the public health, safety and welfare). A permit is also required for removal of private property trees over 8 inches diameter. Impacts to more than 30 percent of the critical root zone of a tree can result in a technical felling, thereby requiring a tree felling permit. Any excavation can potentially damage a tree's root system to the extent that a permit for removal could be required. (If any tree is impacted from the proposed improvement, a consultation with staff of the Urban Forester's office is highly recommended.)
4. Designation of Street - No TSP shall be considered for any improvement that includes widening of an existing structure in any public right-of-way designated as a major or minor arterial or a major collector street. This includes an easement or a proposed right-of-way dedication that is a direct extension of a street designated as a major or minor arterial or a major collector street as defined in the Eugene Arterial & Collector Street Plan.

### **2.H.3 Applicability Criteria for a TYPE ONE Temporary Surfacing Permit.**

A Type One TSP is for very small projects with very limited impact to the right-of-way or access to abutting properties.

1. A Type One permit may be used only:
  - (a) For the placement of dust suppressant.
  - (b) For placement of less than 60 cubic yards of aggregate on an existing aggregate roadway.

(Estimates of areas covered by 60 cubic yards of aggregate are:  
A 12 feet wide lane, 700 feet long at a depth of 2 inches.  
A 20 feet wide lane, 420 feet long at a depth of 2 inches.)

- (c) For placement of less than 30 tons of asphalt concrete on an existing asphalt or aggregate roadway.

(Estimates of areas covered by 30 tons of asphalt are:  
A lane 20 feet wide, 120 feet long at a depth of 2 inches.  
A lane 20 feet wide, 60 feet long at a depth of 4 inches.  
A lane 12 feet wide, 200 feet long at a depth of 2 inches.  
A lane 12 feet wide, 100 feet long at a depth of 4 inches.)

2. A Type One permit may not be used:
- (a) To install any storm drainage facilities or underground utilities.
  - (b) To excavate over 12 inches in depth or place 12 inches of fill material.
  - (c) For any project on an undeveloped section of right-of-way.

#### **2.H.4 Applicability Criteria for a TYPE TWO Temporary Surfacing Permit.**

A Type Two TSP is for more complex projects that may have significant impacts to the right-of-way or access to abutting properties. No Type Two TSP will be issued until proof has been provided that all of the primary services have been extended through the work zone within the right-of-way, or proof of approved plans providing the details of the extension through the work zone. This includes, but is not limited to, municipal water service, electrical power service, telephone service, stormwater drainage, wastewater service, and if required, a tree preservation plan.

An application for a Type Two TSP must demonstrate that the following criteria are met at the time of the application:

1. Improvement to full City standards is not supported by a majority of the property owners abutting the proposed project. Information on polling may be obtained through Public Works Engineering.

(Compliance with this criteria can be demonstrated through an unsuccessful polling for full improvements by the City, or by a letter signed by abutting property owners that indicates a full improvement will not be supported at the time of the proposed temporary improvement.)

2. The proposal provides sufficient access for emergency vehicles.

(Compliance with this criteria can be demonstrated by obtaining an affirmative statement from the Fire Marshal staff.)

3. That all needed utilities are already in place through the portion of the right-of-way proposed for the TSP or that formal plans have been approved for proposed or required utilities.

(Compliance with this criteria can be demonstrated by reviewing existing utilities' as-built drawings or by obtaining written concurrence from the utility providers.)

4. If public storm drainage facilities are proposed or required, those facilities shall be designed to meet the current stormwater facilities design criteria applicable for a full public improvement.

(Compliance with this criteria can be demonstrated by having the stormwater design and plans prepared by a professional engineer licensed in the State of Oregon. Public Works Engineering manages the Privately Engineered Public Improvement (PEPI) process.)

5. Fill sections greater than 2 feet in depth must be designed to meet structural fill criteria applicable for a full improvement.

(Compliance with this criteria can be demonstrated by having the roadway design and plans prepared by a professional engineer licensed in the State of Oregon.)

6. Proposed materials and methods of construction meet or exceed the standards identified herein.

(Compliance with this criteria can be demonstrated by agreeing to have the proposed construction under the TSP managed by a professional engineer licensed in the State of Oregon or by a bonded contractor with experience in public road construction in Eugene.)

7. Alignment of the new roadway, if any, shall be designed to minimize impacts to trees and other natural resource interests within the right-of-way.

(Compliance with this criteria can be demonstrated by having a tree preservation plan prepared by a Certified Arborist who has worked with the engineer in the layout of the new roadway to minimize street tree impacts.)

8. Street Trees:

- (a) The tree preservation plan shall show location, size, and species of all street trees within the length of the proposed project. The plans shall accurately depict the areas of the work zone that may impact street trees. The critical root zone shall be shown for all street trees.
- (b) If work will result in the destruction of more than 30 percent of the critical root zone of a street tree, or if it will otherwise result in the substantial destruction of a tree's

roots, trunk, or limbs, a Tree Removal Permit is required. A Certified Arborist's written report approved by the Urban Forester that shows the Critical Root Zone (CRZ) to have developed in a location not impacted by the proposed construction may relieve the need for a Tree Removal Permit.

- (c) The tree preservation plan shall include notes and drawings on how all street trees that are shown to be retained are to be protected. City of Eugene Standard Tree Protection Drawing E-97 (City Standard Specifications) is a minimum standard for tree protection for street trees.
- (d) The critical root zone for trees 4 inches or smaller in diameter at breast height (dbh) - measured at 4.5 feet above grade) shall be an area with a radius of at least 5 feet from the trunk. The critical root zone for trees over 4 inches in dbh shall be an area with a radius of at least 18 inches from the trunk for every 1 inch of dbh.

(Compliance with this criteria can be demonstrated by providing reports or plans developed by an arborist certified by the International Society of Arboriculture documenting the condition of trees proposed for preservation or removal and recommending effective tree protection during construction.)

- 9. **Non Right-of-Way Trees:** The construction plans shall show all trees 8 inches or larger in diameter at breast height (dbh) on private property where the proposed work within the right-of-way will impact more than 30 percent of the critical root zone. A certified arborist's report shall be required documenting the existing condition of the tree and evaluating its ability to survive the proposed work. If the arborist report shows the tree either will not survive construction impacts or that construction impacts will leave the tree in a hazardous condition, the applicant must obtain written permission from the private property owner to allow the tree to be removed and obtain a Tree Removal Permit, if otherwise required by EC chapter 6 or 9.
- 10. **Geometric Standards for a Type Two TSP:**
  - (a) Minimum pavement width shall be 17 feet for a fully dedicated street right-of-way. For all other dedicated rights-of-way, a minimum pavement width will allow for a 1 foot wide un-surfaced strip on each side within the dedicated right-of-way.
  - (b) The minimum depth shall be 4 inches for any new improvement using asphalt concrete pavement.
  - (c) The minimum aggregate base depth shall be 6 inches of 3/4"-0 aggregate for any new improvement, and compacted to a reasonable density by use of mechanical means.

- (d) Maximum slope shall be 20 percent.

### **2.H.5 Plans and Drawings.**

Applications for a TSP shall be accompanied by such drawings, surveys or plans as deemed necessary by the City Engineer. *See* EC 7.305.

Generally, the permittee will be required to supply 2 sets of complete and accurate plans and/or drawings depicting the proposed facility installation. Three copies will be made to allow 1 for the Inspector, the office file of the permittee and the permittee's field crew performing the work.

All plans and/or drawings, including tree preservation plans, shall, at a minimum, contain the following elements:

- North arrow; and,
- Reference to work area by accurate dimensions to a known intersection center-point, lot corner, or to a known City manhole if an intersection center-point is not available; and,
- Appropriate scale, both vertically and horizontally, and designating with accurate dimensions the portion of the public way proposed to be used; and,
- Identification of the "work zone" (considered to be 10 feet at a minimum around the perimeter of the proposed excavation or facility placement) and including staging and material storage areas within the public way; and,
- Accurate location of curbs, sidewalks, and driveways within the proposed work zone.

Additional details and/or information may be required on any plan that is deemed insufficiently clear or inaccurate by City staff.

If the critical root zone of a tree is located within the proposed work zone, the applicant shall so indicate on the TSP application, and the plans shall accurately depict the areas of the work zone that may impact trees, along with the size, location, and species of each tree within such areas. The critical root zone is the area surrounding a tree trunk having a radius of 18 inches times the diameter breast height of the tree trunk.

If the work zone or portions thereof are outside the public right-of-way but within a public utility easement, the plans shall show any locations where the work zone falls within or directly adjacent to natural resource protection areas (*e.g.* wetlands, rare plant areas, conservation zones, individual trees designated for protection, etc.).

### **2.H.6 Abutting Property Owner Notification.**

Prior to a decision on an application for a Type Two TSP, Maintenance Planning staff shall mail notice of the application to owners and occupants of properties that abut the right-of-way within the area of the proposed TSP. If a TSP is a condition of an existing Land Use process, the following

conditions may be amended for the Abutting Property Owner Notification requirement.

The notice shall include:

1. A full copy of section 2H of this rule.
2. A narrative description of the scope of the project.
3. Instructions on how to obtain or view the complete application and project plans.
4. A statement that a TSP application meeting the approval criteria will be approved.
5. A provision that persons may submit written comments on the application for a period of 15 days from the date the notice was mailed.

#### **2.H.7 Review.**

Before each permit is issued, the applicant's plans are evaluated by Surface Operation staff who draft the location and size of all known City-owned facilities, for which records are on file (*e.g.* stormwater and wastewater, telecommunications, curbs, etc.), on each set of the plans provided by the permittee of the proposed facility. Staff also evaluate the permittee's proposed installation in relation to the placement of planned future City facilities for conflicts with location and grade. Staff have the responsibility of reviewing applications for completeness, determining if an associated erosion permit review is required, and entering the permit information into the computer plan tracking program. Staff will also review and consider comments from abutting property owners.

If, upon initial review of the application, the plans are found to be unclear, incomplete, or inaccurate the application and plans shall be returned to the applicant for correction and re-submittal.

Upon completion of the review process, Surface Operation personnel shall list any required modifications, and if appropriate, sign and issue the approved permit. The individual signing the permit then updates the permit tracking system with the date the permit was issued.

Unapproved permits shall be returned to the applicant with a written statement listing the City's reasons for denying the permit. When possible, suggestions for changes that could result in the permit being approved will be listed.

The applicant for a permit that is denied shall have the right of appeal of the denial to the City Manager. See EC 2.021 for appeal procedures. *See* EC 7.295.

Application fees for TSPs shall be paid upon acceptance of the permit application by the City. City staff, utilizing the fee schedule as set by administrative order of the City Manager, will calculate and

collect the applicable permit fees at the time of permit approval.

### **2.H.8 Expiration.**

TSPs shall be valid for a period not to exceed 6 months from the date of approval. Work may not be performed under an expired permit. Permit renewals shall follow the same process as that used for a new permit.

## **Section 3: CONSTRUCTION WITHIN THE PUBLIC WAY.**

### **3.A STANDARD SPECIFICATIONS.**

The Standard Specifications (City Standards) that are applicable to work within the public way are those City adopted standards as published by the Oregon Department of Transportation, and the American Public Works Association, as modified through published amendments by the City of Eugene, and/or as modified by these special provisions. In addition, placement of facilities within the public way shall conform to applicable design standards for local streets contained in Design Standards for Eugene Streets, Sidewalks, Bikeways and Access ways, current edition.

The Standard Specifications and technical provisions contained herein are **minimum** standards for work performed within the public way. Occasionally, the City will require additional provisions specific to an individual permit. These special provisions will be listed on the approved permit and will supplement or supersede the Standard Specifications.

### **3.B TECHNICAL PROVISIONS (PLACEMENT OF FACILITIES).**

All construction and maintenance work performed by the permittee shall be done in a manner designed to leave all areas in which work was performed in a condition as near as possible to, if not better than, that which existed before the work began. A "patched" appearance is detrimental to the abutting properties, and both the permittee and the City should make efforts to avoid this wherever possible.

Placement of facilities within the public way shall conform to plans, codes, administrative rules, and the Standard Specifications adopted by the City. For purposes of convenience and clarification, below are examples of key provisions:

1. While private citizens may be issued a permit to perform work within the public way, only licensed, bonded contractors may perform work that involves the placement or removal of street or alley pavement, placement of embankment fill, or any work that requires the use of

traffic control devices.

2. The preferred locations of utilities are within a public utility easement (PUE) adjacent to the public right-of-way, beneath sidewalk locations, and within the plant strip area. Longitudinal installations within the plant strip area shall comply with specific installation standards outlined in this manual. Alternate locations may be allowed within the right-of-way if topography or site conditions make use of the primary locations infeasible. Utilities are required to avoid conflicts with stormwater-related conveyance and treatment facilities.
3. Underground facilities may be installed longitudinally in a planting strip within new subdivisions and existing developed areas that have a minimum clear width of 6 feet between back of curb and front edge of sidewalk. Utility designs shall demonstrate that a utility free zone for the planting of street trees shall be maintained to the maximum extent possible. In no case shall the utility free zone be less than 3 feet wide.

In new subdivisions and existing developed areas with planting strips less than 6 feet wide (with or without the presence of existing public trees), underground longitudinal facility installation in the planting strip may be approved only as an exception. Utilities proposing to install underground facilities in these locations shall request an exception in writing to the Traffic Technical Team Supervisor and such request shall be accompanied by a proposed design. The proposed design shall show all existing infrastructure and demonstrate an adequate utility free zone of a minimum of 3 feet in width for the planting and protection of public trees. An exception may be approved, approved with conditions, or denied at the sole discretion of the Traffic Technical Team Supervisor.

4. Unless otherwise required by EC Chapter 9, fire hydrants and main-line shut-off valves may be placed in the planting strip as long as their location allows for street tree planting requirements as detailed in R-7.280. All other surface and above ground facilities shall be located in a PUE adjacent to the right-of-way. In existing areas without the benefit of a PUE, facilities such as transformers, junction boxes, and water meters are allowable in the planting strip when necessary so long as their location allows for street tree planting requirements as detailed in R-7.280. Utilities are required to avoid conflicts with stormwater-related conveyance and treatment facilities. This section does not apply to street light or traffic control facilities owned by the City.
5. All underground pipes and conduits in the public way shall be laid a minimum depth of 30 inches below street or alley grade and 30 inches below ground level in public utility easements, unless otherwise approved by the City Manager or designee. *See EC 7.302.*

Utilities placed in the plant strip area of new subdivisions and existing developed areas with no trees shall be laid a minimum of 36 inches below finish grade. The additional 6 inches of depth is needed to facilitate the placement of future trees.

Where utility placement is within a public way scheduled for construction or reconstruction, if a grade has been established, all underground pipes and conduits shall be laid a minimum depth of 30 inches below the design grade of the new construction.

Exceptions to the 30-inch minimum depth requirement may be allowed under special circumstances. Examples of possible qualifying circumstances include: gravity flow systems which, due to topography or site constraints, must be shallower to maintain minimum slope; unavoidable grade conflicts with existing underground facilities; and, site, topography and/or subsurface conditions prohibitive of excavation at standard depth.

6. No portion of a utility trench within a street may be located closer than 1 foot parallel to the face edge of the gutter. Utility trenches shall not be located closer than 1 foot parallel to the back edge of the curb.
7. Whenever pavement removal within public streets would cause the pavement to be cut within 3 feet of an existing edge, curb, score, joint or crack, the existing pavement shall be removed to that edge, curb, score, joint or crack. Undermined street sections shall be removed.
8. Minimum width of pavement cuts shall be 3 feet in Portland Cement Concrete streets, alleys, and driveways; and a "T" trench in asphalt concrete streets which shall be computed as follows: Surface Width of Trench (including sloughing) + 1 Foot (6 inches each side). An acceptable alternative to using the "T" trench is through the performance of compaction testing by an independent testing lab. If this alternative is selected, frequency of the compaction testing shall be as is specified by the City on City contract projects. Alternate trenching and backfill methods resulting in pavement cuts which differ from these standards may be submitted for consideration on a case-by-case basis.

Pavement restoration for vacuum type excavation and core cuts shall be 24 inch square in Asphalt Cement Concrete streets and 36 inch square in Portland Cement Concrete streets. With prior approval, the Inspector may allow the use of specific polymer based permanent cold patch for the permanent restoration of core holes up to 8 inches in Asphalt Cement Concrete streets. An exception to the backfill for vacuum type excavation within or adjacent to paved surfaces shall be controlled density fill (CDF). Surface restoration for vacuum excavation shall conform to requirements of section 3.B.1 Portland Cement Concrete Streets, Alleys and Driveways for concrete surfaces and 3.B.2 Asphalt Cement Concrete Streets for asphalt surfaces. Monitoring wells within or adjacent to paved surfaces shall be backfilled with bentonite to a level equal with the sub-grade with CDF within the base area.

9. Cutting of existing pavements shall be performed with a rotary saw. The alignment of the cutting shall be straight and the cutting depth shall be to a minimum of 60 percent of the existing pavement depth.

10. Unless otherwise approved by the Inspector, pavement cuts shall be made parallel or perpendicular to the centerline of the public way.
11. Trench backfill within the public street right-of-way and under all paved or graveled surfaces outside of the public street right-of-way shall be Class B (3/4 inch-0 crushed base aggregate). Pea gravel backfill shall not be allowed. Class A (native or similar material) backfill may only be used in easement areas which are not paved and will not be surfaced with paving material such as PCC or AC. During the wet weather season (October 15<sup>th</sup> through April 30<sup>th</sup>) backfill within easement areas shall consist of Class B (3/4 inch-0 Crushed Base Aggregate).

Trench compaction shall be at least 95 percent of maximum density. In non-paved areas outside public street right-of-way, trench compaction shall be at least 90 percent of maximum density. In each case, maximum density shall be determined by AASHTO T-99 Method D as corrected for oversize by AASHTO T-224. Backfill lifts or layers shall not exceed 24 inches in depth. Compaction shall be accomplished using mechanical vibrators or impact tampers. Wheel rolling by a truck or backhoe shall not be acceptable.

The inspector may require compaction testing. All compaction testing shall be performed by an independent lab. All cost associated with compaction testing shall be the responsibility of the permittee.

Controlled density fill (CDF) should be used in trenches crossing a street or alley right-of-way at right angles to the alignment. With prior consent, the Inspector may allow CDF backfill parallel to the right-of-way.

Traffic may temporarily be placed directly upon CDF prior to paving as soon as it has sufficiently hardened so that the surface will withstand traffic or construction equipment loading without deformation. If CDF is used as a temporary surface restoration material, the surface shall be maintained and repaired by the permittee if damage occurs or maintenance is necessary.

12. All Portland Cement Concrete used in the replacement of streets, alleys, or sidewalks shall obtain a minimum breaking strength of 3,300 psi in 28 days and conform to sections 212 through 215 of the Standard Specifications.
13. All ornamental surfacing shall be replaced "in-kind" to that surfacing removed.
14. Where sections of a sidewalk are requested to be removed by the permittee, they shall be removed to the nearest existing score or joint in each direction.

15. Where sections of curb or curb and gutter are removed by the permittee, a minimum of 10 linear feet of curb and gutter shall be removed and replaced. An alternative to this requirement shall be removing and replacing 3 linear feet of curb and gutter with the new curb and gutter tied into the existing curb by inserting three 12 inch x #4 rebar dowels into drilled ½ inch diameter by 6 inch deep holes in the adjoining existing curbs and gutters, 1 dowel in the curb and 2 dowels in the gutter at each end of the replaced section.

When the gutter bar portion of the curb and gutter is removed along an asphalt street, at least 24 inches of asphalt concrete shall be removed to allow sufficient room for placement of the forms for the new face of gutter and proper compaction of asphalt restoration. An alternate to removal of adjacent asphalt shall be to saw cut the asphalt at the face of the gutter bar, using the edge of asphalt as the form for concrete replacement.

When the curb is removed but the gutter bar is left in place, epoxy shall be used on the back of the gutter to bond the existing Portland Cement Concrete (PCC) to the new PCC being placed (*i.e.* at driveways, handicapped access ramps, etc.).

16. If a street light, or traffic control facility is damaged, the permittee or contractor shall immediately notify the Inspector and Traffic Operations personnel. Traffic Operations is available at 682-4965 or 682-4800. All repairs shall meet current City Standard Specifications. All repairs shall be the permittee's responsibility and shall be performed at the permittee's expense. Repairs shall be performed by City staff, or by an approved contractor as directed by the Inspector.
17. Bicycle/wheelchair ramps and bypasses shall be constructed or upgraded to current ADA standards whenever a curb, driveway approach, or sidewalk is constructed, improved or replaced at any point in a block which gives reasonable access to a crosswalk and where no ramp currently exists. (*See* ORS 447.310.)
18. The permittee shall notify the Inspector at least 1 full business day before any permanent surface restoration is to be made by the permittee's own staff or that of contractor working for the permittee.
19. The top finish elevation grade for underground vaults shall be at least 18 inches below the finish grade of the surface AC or PCC.
20. Above ground facilities shall not be placed in a manner that would cause a vision obstruction as defined by EC 6.010 (j).
21. When wastewater lateral markers in new developments (typically 2 inches x 4 inches wood posts) are damaged, they shall be replaced by the permittee or the permittee's contractor. This replacement shall require excavation to uncover the wastewater lateral and ensure the

correct location for the replacement marker.

22. Catch basins or storm inlets abutting the work area shall be inspected by the permittee or their contractor at the conclusion of work and cleaned of construction related debris as necessary.
23. Public drywells shall not be disturbed in any way without prior written consent of the Inspector. If a public drywell is encountered during excavation, the permittee or permittee's contractor must immediately stop working in the area of the drywell. Any disturbance or damage to a public drywell must be reported immediately to the Inspector and repair/replacement shall be the responsibility of the permittee.
24. Underground utilities installed in the public way in, or immediately adjacent to, wetlands shall incorporate CDF baffles or other approved methods in the trench to help prevent inadvertent drainage of these wetlands.
25. Surface restoration required as a result of activity parallel to a bike lane shall be made to the full width of the bike lane. In no case shall a longitudinal restoration leave a parallel surface joint within the bike lane area.

Where the Inspector requires a bicycle/wheelchair ramp to be constructed under ORS 447.310 guidelines and where the existing sidewalk and/or bicycle/wheelchair ramp has extensive existing damage, the permittee may request the City to participate in the expense of constructing the new ramp. The permittee must request the Inspector to meet with the permittee at the location of the proposed work to evaluate the existing City sidewalk/ramp prior to the commencement of any work. If, in the judgement of the Inspector, the existing sidewalk/ramp has extensive existing damage or represents a hazard under the sidewalk policy inspection criteria, the City will reimburse the permittee for only the materials cost of the PCC placed.

### **3.B.1 Portland Cement Concrete Streets, Alleys and Driveways.**

In addition to the technical provisions of 3.B Technical Provisions (Placement of Facilities), work within Portland Cement Concrete (PCC) streets and alleys shall conform to the following requirements:

1. Minimum width of pavement cuts in PCC streets and alleys shall be 3 feet. Unless otherwise approved, replacement of the full panels affected shall be required on sidewalks and driveways.
2. PCC in utility trench patches shall be placed to a depth matching the existing pavement or 7 inches, whichever is greater. Where the existing pavement is PCC over Cement Treated Base (CTB) or Asphalt Treated Base (ATB), replacement depth shall be the combined depth

of the PCC and CTB or ATB.

3. Where the replacement PCC on the outside edge of an alley abuts Asphalt Cement Concrete (AC), a minimum of 24 inches of AC shall be removed to allow sufficient room for the placement of the alley concrete forms and proper compaction of asphalt restoration. Where the alley outside edge abutting material is PCC, a full length expansion joint shall be placed.
4. Steel reinforcement, which is required to be used in all PCC street, alley and driveway utility trench patches, shall be No. 4 bar 24 inches on center in both the longitudinal and traverse directions. A minimum of 2 parallel bars in each direction shall be used. Except at existing expansion joints, the new patch shall be tied into the existing pavement by fully inserting the reinforced steel into drilled ½ inch diameter by 3 inch deep holes in the adjoining existing pavement. Splices in the reinforced steel required to be made shall have an overlap of at least 12 inches.
5. Utility trenches patched with PCC shall be kept free of traffic or other detrimental trespass through use of suitable barriers and other traffic control devices for a minimum period of 7 days. An alternative using 9.0 sacks of portland cement per cubic yard of concrete allows the traffic to be returned after a minimum period of 3 days. In no case shall vehicle trespass occur on PCC streets until design strength is achieved.
6. Pavement cuts encountering PCC overlaid by asphalt concrete may be replaced by full depth asphalt concrete.
7. Internal vibration shall be used to consolidate PCC which is being placed in depths greater than 7 inches.
8. Joints in PCC pavement will be referred to as contraction, construction (cold), dummy, or isolation (expansion). Any of these may be transverse or longitudinal. All joints and joint material or filler shall extend to pavement edge or to each other.

All joints shall be constructed normal to the surface of the pavement. Joints shall not vary from inspector specified line by more than ¼ inch.

Transverse contraction joints shall be spaced at equal distance between joints that are equal to the width of the structure (square) and as required to prevent cracking. In addition, transverse contraction joints in pavement shall align with joints in curb and with structures. Separation between transverse joints shall not exceed 15 feet. Joints to be saw cut shall be cut with a waterless (dry) saw to a minimum depth of 1½ inches or ¼ of the depth of concrete which ever is less. The saw cut shall be performed as soon as the concrete has set enough to permit sawing without tearing and raveling and prior to any uncontrolled cracking.

Isolation (expansion) joints shall be straight and at right angles to the alignment, vertical to the surface, and shall provide complete separation of the Portland Cement Concrete. Joint material shall be installed using a 2x4 as a support prior to pouring the concrete. Isolation joints shall be constructed opposite existing isolation joint. When multiple panels are replaced, isolation joints shall be installed at every 3rd panel.

All joints in PCC within or abutting the construction area shall be sealed at the permittee's expense.

### **3.B.2 Asphalt Cement Concrete Streets.**

In addition to the technical provisions of 3.B Technical Provisions (Placement of Facilities), work within Asphalt Cement Concrete (AC) streets and alleys shall conform to the following requirements:

1. AC in utility trench patches shall be placed to a depth matching the existing pavement or 4 inches, whichever is greater. The top course shall be class "C" mix and shall not be placed any thicker than 2 inches or thinner than 1 inch. Where the existing pavement is AC over PCC, CTB or ATB, replacement depth shall be the combined depth of the AC and PCC, CTB or ATB.

The permittee may substitute PCC for AC for all except the top 4 four inches when replacing existing pavement sections. If the permittee uses a 9 sack concrete mix design and places the concrete at an approximate slump of 2 inches, final asphalt concrete may be placed after allowing the concrete 2 hours to cure.

2. Tack coat asphalt conforming to section 211 of the Standard Specifications shall be uniformly applied to the existing abutting AC, PCC, ATB or CTB surfaces.
3. The materials and the placement and compaction of AC shall conform to the requirements of section 211 of the Standard Specifications.

Compaction of the surface lift of AC shall be accomplished using a steel wheel roller of adequate size to insure aggregate interlocking and thorough compaction to the above-referenced specifications. A vibrator plate compactor shall not be acceptable for finish lift compaction.

4. After final compaction, all joints between new and existing paving shall be sealed with CSS-1 paving asphalt, and sanded to prevent pickup and tracking. The asphalt shall be applied with a pressurized sprayer and shall completely overlap the existing and new paving to ensure a complete seal of the joint.

### **3.C INSPECTION.**

Work under the permit is subject to City inspection before, during, and after completion of the work.

A copy of the approved permit and plans or drawings must be on the work site at all times.

The Inspector shall be responsible for inspection of work performed under standard right-of-way work or cut permits and annual permits for work within the public way. Upon request by the Engineering Division, the Inspector may also inspect other work performed in the public way under a revocable permit or a public improvement permit.

Upon receiving the notice of commencement for the proposed work, the Inspector will endeavor to meet with the contractor's representative in charge of the construction at or before the commencement of the work covered by the permit. At this time, the methods and planned sequence of the operations should be discussed, unanswered questions resolved, and agreement obtained on preexisting damage to facilities already in place.

The Inspector will periodically monitor operations performed by the contractor to see that work is performed according to the permit conditions. The work must strictly conform to the approved plans. Any changes in the proposed facility from that shown on the approved permit must have the prior consent of the Inspector. If a field change is approved by the Inspector, the permittee shall submit modified permit drawings which document the change. The Inspector may require the permittee to apply for a new permit if the requested change cannot be resolved by a field decision.

The Inspector may require changes in construction technique or workmanship if hazardous conditions are present and may halt construction if it does not conform to the approved permit and plans or drawings.

### **3.D PROTECTIVE MEASURES AND ROUTING OF TRAFFIC.**

The permittee shall comply with all City traffic control standards including latest editions of Part VI of the Federal Manual on Uniform Traffic Control Devices (MUTCD), the Oregon Department of Transportation's Short Term Traffic Control Handbook and the City of Eugene Work Zone Traffic Control Standards Supplement, and as specified in Section 202 of the Standard Specifications.

NOTE: Bicycle lanes and sidewalks are considered legal travel lanes herein and must be accommodated as such.

It shall be the duty of any person working, cutting, or making an excavation in or upon any public way to establish and maintain barriers and warning devices necessary for the safety of the workers and the general public. The Inspector may review the permittee's placement of these barriers and

warning devices. When, in the judgment of the Inspector, additional barricades or warning devices are necessary, he/she shall so inform the permittee and the permittee shall take prompt action to comply.

If a project will last longer than a single work shift, the permittee must inspect all traffic control devices at the beginning and end of each shift, and maintain all devices as necessary to meet established permit conditions.

### **3.E LANE CLOSURES, WORKING TIME, AND PARKING RESTRICTIONS.**

Written approval from Traffic Operations personnel is required for a permittee either to close a street travel lane or restrict parking on either an arterial or collector street, or within the downtown core area. The downtown core area is defined as that area bordered on the North by 5th Avenue, on the South by 13th Avenue, on the East by High Street and on the West by Lincoln Street. A copy of the written authorization must be at the work site all times the closure or restriction is in effect. The Inspector shall have the authority to enforce the conditions stated in the restriction or closure authorization.

Due to the conflicts between traffic and construction work during peak traffic hours, work on arterial or collector streets and/or within the downtown core area shall be prohibited during the hours of 7:15 - 8:15 a.m. and 4:00 - 6:00 p.m. Whenever approved lane closures on arterial or collector streets or within the downtown core area are performed, the permittee shall be responsible for informing the local media (*i.e.* major local newspapers, radio stations, and television stations), law enforcement, fire protection, ambulance, transit agencies, and school districts of the approved closure.

Reviewing applications and issuing authorizations for lane closures and parking restrictions outside the above described limits shall be the responsibility of the Inspector. However, when the Inspector has concerns about unusual traffic control issues, he/she may refer the particular request to Traffic Operations personnel for authorization.

To avoid noise disturbances, normal working times for work performed under a permit shall be restricted to the hours between 7:00 a.m. and 7:00 p.m., unless specifically authorized by permit, license, or variance. *See* EC 4.083(g), EC 4.084.

### **3.F MAINTENANCE OF ROADWAY DRAINAGE.**

A permittee shall maintain all gutters, ditches, and other drainage features unobstructed and free of sediment, dirt, and debris. For curb and guttered streets, the gutters shall remain unobstructed for the full depth of the adjacent curb and for a width of at least 1 foot in width from the face of the curb at the gutter line. Whenever a valley gutter crosses an intersecting street, an adequate waterway shall

be provided and at all times maintained. *See* EC 7.307 (3).

### **3.G TEMPORARY TRENCH PATCHING AND PERMANENT TRENCH RESTORATION.**

The permittee shall not open more than 400 linear feet of trench without backfilling the trench the same working day. The permittee shall be required to backfill and patch temporarily with asphalt concrete material any excavation in a vehicle traffic lane, bike lane, sidewalk, or on a bike path the same day of excavation and shall maintain the temporary patch until the final surface repair is placed. Temporary trench repair shall be maintained sufficiently to prevent settlement or an irregular surface. Additionally, temporary restoration within a bike lane, sidewalk, or on a bike path shall meet established ADA standards for slope and rise.

Where it is impracticable to backfill and complete temporary surface restoration the same day of trench opening, the permittee may seek from the Inspector prior written approval to leave a trench open overnight. With prior written approval, the permittee may leave a maximum of 400 linear feet of trench open overnight, provided the permittee provides access to adjoining property, establishes and maintains barriers and warning devices, and adequately protects citizens from open trench zones.

With prior written approval, the permittee may be allowed to use temporary steel plates to cover certain types and sizes of excavations overnight. Steel plates shall not be used in bike lanes, bike paths, or pedestrian areas. Whenever temporary steel plates are installed over the street cut, they shall be capable of carrying a minimum of H-20 loading. The steel plates shall have a minimum of 12 inches bearing on all sides of a cut. The steel plates shall be anchored to minimize shifting. All steel plates shall have their edges shimmed with cold mix asphalt.

As soon as practicable, but in no case greater than 60 days after completion of the permit work and at permittee's expense, permanent pavement replacement within the public way shall be completed in accordance with City Standards by a qualified contractor or by the permittee if the Inspector agrees the permittee has the required resources and trained personnel. If the permittee fails to make the permanent pavement repair within the time specified, the City may make the repair and charge the cost thereof to the permittee without prior notification. *See* EC 7.307 (1).

**NOTE: The permittee is responsible for insuring that the Inspector is notified 1 business day before the permanent repairs are to be made.**

The Inspector shall maintain a file containing the location of and the permittee responsible for all temporary pavement patches. An inspection 50 days after the placement of a temporary patch shall be made with a notification provided to the permittee requiring permanent restoration if the temporary patch is still in place.

### **3.H PROTECTION OF TREES.**

Special care must be exercised and protective measures utilized when work within the public way impacts the critical root zone of street trees and those trees designated for protection in a natural resource protection area as described in section 2.D.2 of this manual. No root over 2 inches in diameter of such trees shall be cut without the approval of the Urban Forester. Utility lines shall be installed and maintained by tunneling under roots within the critical root zone whenever possible. Alternatively, hand-digging around roots or using other non-destructive methods of excavation, such as an air spade or vacuum excavation, are acceptable methods of preventing damage while working within the critical root zone.

Protective fencing shall be required around street trees and other designated trees to protect the area of the critical root zone outside of the immediate excavation area but within the work zone. See Standard Specifications 221A.1 - 221A.3 and City of Eugene Standard Tree Protection Drawing E-97. Temporary placement or storage of construction materials, equipment, tools, or soil shall not occur within the critical root zone of street trees. The soil within the critical root zone of street trees shall be protected from rutting or compaction damage from construction equipment, such as tires or outriggers. No construction debris or waste, solid or liquid (such as brick dust, mortar, concrete washing, etc.) shall be permitted within the critical root zone of street trees. Reasonable care shall be taken to avoid damage to tree foliage from exhaust stacks or construction equipment.

Except for pruning necessary to protect EWEB lines or crews performing emergency work or line clearance maintenance work required by state regulations, no person shall prune a tree growing within the public right-of-way in a manner not in compliance with ANSI A-300, American National Standard for Tree Care Operations — Tree, Shrub and Other Woody Plant Maintenance — Standard Practices. All operations shall also comply with ANSI Z-133.1, American National Standard for Tree Care Operations — Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush — Safety Requirements. A permit shall be required when pruning limbs 2 inches or greater in diameter.

### **3.I EROSION PREVENTION, SITE RESTORATION AND CLEANUP.**

Erosion prevention measures shall be incorporated into all work performed under a right-of-way permit in compliance with EC 6.630(2) and Administrative Rule R-6.645. The intent of those provisions is to ensure that construction related activities prevent or minimize erosion, sedimentation, and other stormwater related problems. No person shall engage in any construction related activity in a manner that can potentially impact water quality. All persons shall prevent and/or control erosion, sedimentation, and other construction related impacts to stormwater quality in a manner designed to meet the outcomes specified in R-6.645 (D). Failure to implement measures that meet those outcomes shall subject the person to any or all of the following: stop-work order; citation for violation; administrative compliance order; and, civil penalties.

Pursuant to R-6.645-F, no person shall commence any construction related activity without first obtaining from the Engineering Division an erosion prevention permit, if the construction related activity:

- Will result in the disturbance of 1 acre or more of land.
- Is located in a sensitive area as designated pursuant to R-6.645-E.

Pursuant to R-6.645-E, a construction site shall be considered a sensitive area by the City for which an erosion prevention permit will be required if the site meets one or more of the following criteria:

- The slope of the parcel in the area of disturbance is greater than 10 percent.
- The site, by City definition, contains highly erodible soils.
- The parcel or tax lot of record has the potential to drain directly into a water feature or its designated buffer area.

For all other construction activities not subject to the erosion prevention permit requirements, compliance with the standards for preventing and controlling erosion, sedimentation, and other impacts associated with construction site management practices is required. (See R-6.645-D.)

All construction activity that will result in soil disturbance during the wet weather season (October 15th through April 30th) shall, at a minimum, implement and maintain the following Best Management Practices (BMP's) on the site:

- Gravel construction site entrances.
- Protection of all stormwater systems, water features, and natural resources.
- Cover all exposed soil not currently protected by secondary containment or treatments.
- Timely removal of sediment, soil or construction related material from the right-of-way, adjacent property, and the city's stormwater system, including water features and related natural resources. All violations that occur shall have corrective action taken immediately.

Ground water extracted from excavated areas shall be disposed of in a suitable manner without damage to adjacent property, City's stormwater system, water features, and related natural resources. Dewatering systems shall be designed and operated so as to prevent removal of the natural soils and so that the groundwater level outside the excavation is not reduced to the extent that would damage or endanger adjacent structures or property. Approval of the system does not guarantee that it will meet the outcomes or be acceptable for use in all situations. Modifications to the system will be

required if the outcomes can not be met. No sediment laden water should ever leave the construction site.

Activities involving cleaning of construction equipment and disposal of excess construction materials shall be conducted so that materials and washout will not be deposited into catch basins, gutters, ditches or areas where runoff may carry materials into the City stormwater system.

In addition, the permittee shall be responsible for promptly removing and cleaning all excess earth, stone, crushed rock, rubbish, debris and any unused material that result from work performed. As work progresses, all public ways shall be thoroughly cleaned of all rubbish, excess earth, rock, and other debris resulting from such work. All cleanup shall be at the expense of the permittee. Upon failure to do so, within 24 hours of notification, the City may perform the work and charge the cost thereof to the permittee. If, in the judgment of the Utility Permit and Inspections Supervisor, a hazardous or dangerous condition exists that affects the public health, safety and welfare, the notification requirement may be waived and the City may take immediate necessary corrective action to remove the hazardous conditions and charge the costs thereof to the responsible party. *See EC 7.307 (2).*

Upon completion of the proposed work, the work site and all disturbed landscaping shall be restored to a condition as near as possible to that which existed immediately prior to the work. Restoration may include, but is not limited to, regrading, seeding and mulching.

### **3.J DAMAGE TO EXISTING FACILITIES.**

The permittee shall be responsible for all damage to public or private property resulting from the permittee's failure to properly protect people and property while carrying out the work. *See EC 7.297 (2).*

The Inspector and the owner of any damaged facility must be immediately notified of damage to public or private facilities caused or found by the permittee. When private wastewater or stormwater lines are damaged the permittee shall immediately notify the City Building Wastewater Inspector at Public Works Maintenance (682-4800). Required repairs shall meet the State of Oregon Plumbing Specialty Code and be inspected by the Building Wastewater Inspector. The Building Wastewater Inspector shall note on the City's wastewater or stormwater connection records the damage and the permittee responsible for the damage.

The permittee shall exercise care to avoid disturbing or destroying survey monuments. Survey monuments disturbed by the permittee's work shall be restored in conformance with requirements of ORS 209.150.

### **3.J.1 Damage to City Facilities.**

If a permittee's failure to comply with OAR 952-001-0010 through 952-001-0090 or failure to use reasonable care to protect City facilities causes damage to a City facility, the permittee shall be responsible for all costs of repair or restoration of the facility. When a City facility is damaged the permittee shall immediately notify the Inspector. The Inspector shall submit a damage report and a subsequent repair inspection report to the Utility Permit and Inspections Supervisor. To aid in the updating of the infrastructure condition records, the damage repair report shall include a measured location and description of the damage and repair.

If a permittee contests responsibility for the damage to a City facility discovered within the permittee's work zone, the permittee shall still be held responsible for effecting immediate repairs to the damaged facility. The permittee should then be directed to submit a billing to the Utility Permit and Inspections Supervisor showing the exact time and materials expended to effect the repairs. Also, the permittee should include, in narrative form, an explanation as to the cause of the damage, the reasons the permittee should not be held responsible, and justification for the billing.

**Damage to Wastewater Collection System** - If the damaged facility is a privately owned building wastewater line, the repairs shall be performed by a contractor, plumber, utility crew, or others qualified to perform such work. The work shall be performed in accordance with the State of Oregon Plumbing Specialty Code (UPC) and inspected by the Wastewater Inspector prior to backfill.

All "taps" into City Wastewater Collection System mains shall be performed by the City.

When the damaged facility is a publicly owned wastewater line, the Wastewater Collections Crew Supervisor shall be immediately notified. The Crew Supervisor shall have the option of providing repairs consultation to the permittee responsible for the damage, directing the repair performed by the person(s) responsible for the damage, or having the repair performed by City crews at the expense of the permittee responsible for the damage. The Inspector shall submit a damage and inspection report to the Utility Permit and Inspections Supervisor who shall review and approve a billing submittal to the permittee responsible for repair costs incurred by the City.

**Damage to Stormwater System Components** - If the damaged facility is a stormwater pipe, the repairs shall be performed by a contractor, plumber, utility crew, or others qualified to perform such work. The work shall be performed in accordance with City standards and inspected by the Inspector prior to backfill. Repairs involving taps to a stormwater pipe may be performed by qualified contractors or personnel working for the permittee.

Catch basins, inlets, culverts, roadside ditches and drainage channels damaged by the work of the permittee shall be restored to as good a condition as existed prior to permit work.

Catch basins shall be cleaned of material or debris resulting from the work. Ditches and channels shall be restored to original shape with banks left in stable condition. Waterway features may require re-seeding at the direction of the Inspector. Rock used to restore ditch or channel slopes shall be a minimum 3 inches and compacted, unless otherwise specified by the Inspector. Damaged culverts shall be repaired and cleaned of construction debris.

**Damage to Traffic and Street Light Facilities** - If a street light, or traffic control facility is damaged, the permittee or contractor shall immediately notify the Inspector and Traffic Operations personnel. Traffic Operations is available at 682-4965 or 682-4800. All repairs shall meet current City Standard Specifications. All repairs shall be the permittee's responsibility and shall be performed at the permittee's expense. Repairs shall be performed by City staff, or by an approved contractor as directed by the Inspector.

**Damage to City Telecommunication Lines** - If a City telecommunication line is damaged, the permittee shall immediately notify the Inspector and the Information Services Division (ISD) at 682-5070. ISD staff responsible for City telecommunications shall have the option of providing repair consultation to the permittee responsible for the damage, directing the repair performed by the person(s) responsible for the damage, or having the repair performed by any qualified entity at the expense of the permittee responsible for the damage.

**Damage to City Irrigation Facilities** - If a City irrigation line is damaged, the permittee shall notify the Inspector who will consult with the City parks maintenance supervisor. The City parks maintenance supervisor shall have the option of providing repairs consultation to the permittee responsible for the damage, directing the repair performed by the person(s) responsible for the damage, or having the repair performed by City crews at the expense of the permittee responsible for the damage.

**Damage to Public Trees** - When a street tree or tree on City-controlled property is damaged the Inspector and the City's Urban Forester must be notified. The City may require an assessment of tree damage and future health by a certified arborist. The City's Urban Forester shall have the option of providing repairs consultation to the permittee responsible for the damage, directing the repair performed by the person(s) responsible for the damage, having the repair work performed by a certified arborist at the expense of the permittee, or having the repair performed by City crews at the expense of the permittee responsible for the damage. If a damaged tree must be removed due to the severity of damage or the creation of a hazardous condition, a tree removal permit must be obtained and the tree removed at the expense of the permittee and subject to the conditions imposed upon the tree removal permit. Tree removal permit conditions typically include a requirement to replace the removed tree with a tree of similar value or to pay the City the value of the tree removed. *See* EC 6.305(3).

**Damage to Public Drywells** - If a drywell is damaged, the Inspector shall be notified immediately. Any damage to the drywell must be inspected by the Inspector. The Inspector

will consult with the Engineering Division regarding appropriate repairs. The Inspector, under the direction of Engineering personnel shall have the option of providing repair consultation to the permittee responsible for the damage or having the repair performed by City crews or a contractor under contract for the City at the expense of the permittee responsible for the damage.

## **Section 4: MAINTENANCE RESPONSIBILITIES.**

### **4.A GENERAL.**

Patches or excavations within the public way in need of maintenance shall be reported to the Inspector. In most cases, a utility cut requires maintenance or repair if any part of the replacement surfacing deviates more than  $\frac{3}{4}$  inch from the finished surface street grade or  $\frac{1}{2}$  inch from a finished sidewalk grade.

If, upon reasonable notice, the permittee fails to restore and maintain the public way affected by the permittee's work, the City may perform the work and charge the cost to the permittee. If, in the judgment of the Utility Permit and Inspections Supervisor, a hazardous or dangerous condition exists that affects the public health, safety and welfare, the notification requirement may be waived and the City may take necessary corrective action to remove the hazardous conditions and charge the costs thereof to the responsible party without prior notification. *See EC 7.308 (3).*

If more than one permittee has worked within the affected area, the Utility Permit and Inspections Supervisor shall allocate the responsibility and cost for restoration and maintenance. Factors to be considered in the allocation of responsibility include the nature of the work each performed, the type of deterioration occurring, when each permittee performed work, the kind of equipment and construction techniques each used, and other such factors which may be deemed relevant. *See EC 7.308 (2).*

### **4.B IMPROVED PUBLIC WAY.**

For purposes of surface restoration and maintenance responsibilities of the permittee, an improved public way is a public right-of-way upon which hard surface improvements such as street and alley pavements, public sidewalks, or bicycle paths have been constructed. The permittee is responsible for maintaining surface restoration of a utility or right-of-way cut upon an improved public way. *See EC 7.308 (2).*

Unless otherwise noted, the City of Eugene assumes **NO** maintenance responsibilities for any improvement constructed under the authority of a Temporary Surfacing Permit (TSP). The

owner/applicant accepts all responsibility to maintain the surface and related improvements in a safe condition.

#### **4.C UNIMPROVED PUBLIC WAY.**

For purposes of surface restoration and maintenance responsibilities of the permittee, an unimproved public way is a public right-of-way or public utility easement upon which hard surface improvements such as street and alley pavements have not been constructed. The permittee shall be responsible for maintenance of surface restoration of work performed within an unimproved public way for a period of one year commencing upon the completion of the work. *See EC 7.308 (1).*

**Section 5: REFERENCES.**

Eugene Code 4.083, 6.630, 7.007, 7.290, 7.295, 7.297, 7.302, 7.305, 7.307 & 7.308

Administrative Rule R-6.645

Oregon Revised Statutes 447.310 (Sidewalk Ramps)

Latest editions of Part VI of the Federal Manual on Uniform Traffic Control Devices (MUTCD), the Oregon Department of Transportation's Short Term Traffic Control Handbook and the City of Eugene Work Zone Traffic Control Standards Supplement

Standards Manual, Oregon Utilities Coordinating Council, current edition

Standard Specifications and Drawings for Public Works Construction, Oregon Chapter APWA, current edition and amendments

Eugene Arterial & Collector Street Plan, November 1999

ANSI A-300, American National Standard for Tree Care Operations — Tree, Shrub and Other Woody Plant Maintenance — Standard Practices, current edition

ANSI Z-133.1, American National Standard for Tree Care Operations — Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush — Safety Requirements, current edition

**EXHIBIT "A"**

**ADMINISTRATIVE ORDER NO. 58-03-19-F  
of the  
City Manager of the City of Eugene**

**AMENDING CONSTRUCTION WITHIN AND  
USE OF THE PUBLIC WAY RULE R-7.302 AND  
REPEALING ADMINISTRATIVE ORDER NO. 58-00-13-F.**

**The City Manager of the City of Eugene finds that:**

**A.** Pursuant to the authority of Section 2.019 of the Eugene Code, 1971, Administrative Order No. 58-00-13-F was issued on September 27, 2000, amending and adopting Construction Within and Use of the Public Way Rule R-7.302.

**B.** Based on the findings set forth in Administrative Order No. 58-03-19-F issued on November 18, 2003 I proposed amendments to Rule R-7.302 and the Utility and Right-of-Way Permits Construction Within and Use of the Public Way Manual attached as Exhibit A thereto, as set forth in finding B of that order.

**C.** Notice of the proposed amendments was published in the Register Guard for five consecutive days, to-wit, on November 25, 26, 27, 28, 29, 2003. The Notice was also made available for persons who had requested such notice, and provided that written comments would be received thereon for a period of 30 days from the first date of publication.

**D.** Written comments were received from Comcast of Oregon, to which I make the following specific findings:

**Comment 1:** An objection was raised to the phrase "amount established" in R-7.302-C-1.3.3 in reference to the fee for an exception permit, as being vague, and Comcast suggested it be revised to "an amount to cover City's actual cost."

**Finding:** No amendments were proposed to be made to this subsection, which remains the same as in the prior Rule. It would be inappropriate to amend substantively a portion of the rule that was not proposed for amendment in the Notice without providing a new opportunity for public comment. (This finding applies also to Comments 2, 3 and 4.) The use of the phrase in the subsection is a direction that the fee be established by the City Manager following the procedures of EC 2.020, which requires a public comment period. No changes were made as a result of this comment.

**Comment 2:** Comcast objected to the requirement of building and paying for excess capacity that would not be under its control and could be used by a possible competitor, and also objected to being liable for the condition of facilities it was not using as required by R-7.302-E-2.

**Finding:** Again, this subsection is unchanged from the prior Rule. In addition to the language in this subsection replicating EC 7.302(5) (which cannot be modified or amended by rule), installation of underground conduits in conjunction with a capacity enhancing public project minimizes the inconvenience experienced when utility excavation is performed on an existing street, increases the useful life of the surface, and minimizes the installation cost for the utility. Conduit installed under this Rule remains under the control and ownership of the utility, and the Rule does not address liability for maintaining the condition of the facility. The requirement to install conduit crossings in conjunction with capacity enhancing projects is an appropriate requirement for utility providers using the public way, is required by provisions of the Eugene Code, 1971, and is consistent with City objectives in the promotion of undergrounding. No changes were made to the Rule as a result of this comment.

**Comment 3:** With respect to R-7.302-E-3.2, Comcast expressed its opposition to: (a) building and paying for excess capacity that would not be under its control and could be used by a competitor; (b) being liable for the condition of a plant it is not using; and (c) the provision regarding its ability to recover a portion of the cost, asserting that recovery of cost should be at fair market value.

**Finding:** This subsection is also unchanged from the prior Rule and is required to be included in the Rule by EC 7.302(6)(e). One of the objectives is to minimize impacts on the public as a result of reoccurring facility installation and to maximize the useful life of the finished surface. Any excess capacity required of a utility provider remains under the installing provider's control unless relinquished. The Rule does not address liability for maintaining the condition of the facility. The City recognizes the public value provided by competition. Excess capacity may be available to any authorized user of the public way. Requirements regarding compensation are established to enable the initial provider to recover a portion of its costs in a manner that is not discriminatory, does not prevent competition in the service delivery, or become a barrier to other providers. No changes were made to the Rule as a result of this comment.

**Comment 4:** Comcast expressed a belief that it should be excepted from the requirement of R-7.302-H-1 to provide a public way restoration performance bond or security deposit for any project involving the opening of greater than 400 linear feet of public way because of its requirement to provide the City with a corporate surety bond of \$25,000 under its franchise agreement.

**Finding.** As with the prior comments, this objection was raised with respect to a subsection that is unchanged from the Rule that has been in effect since September 2000. In addition to this requirement for provision of a restoration performance bond being separate from any franchise bond requirements, R-7.302-H-1.2 provides an exception process for permittees who have demonstrated prior competence in meeting established requirements for restoration activities, and these exception requests are routinely granted. No changes were

made to the Rule as a result of this comment.

**Now, therefore,** based upon the above findings, which are hereby adopted, the findings in Administrative Order No. 58-03-19, and pursuant to the authority contained in Section 2.019 of the Eugene Code, 1971, I hereby repeal Administrative Order No. 58-00-13-F as of the effective date of this Order, amend Construction Within and Use of the Public Way Rule R-7.302 and the Manual attached as Exhibit A thereto as proposed in Administrative Order No. 58-03-19, and ratify and affirm the unamended portions of Rule R-7.302 and the Manual attached thereto, so that R-7.302 provides in full as follows:

**CONSTRUCTION WITHIN AND USE OF THE PUBLIC WAY  
ADMINISTRATIVE RULE R-7.302**

**R-7.302-A     Construction Within and Use of the Public Way - Policy.**

In order to create attractive and healthy neighborhood environments and protect the public's right for the safe and unobstructed use of the public way, applicants wishing to perform work or construction in, or to use, the public way shall first obtain a written permit and shall conform with the standards and procedures provided for in these rules and the provisions, specifications, and conditions contained within the manual on Utility and Right-of-Way Permits, Construction Within and Use of the Public Way, Policies and Procedures, attached hereto as Exhibit A and adopted herein.

**R-7.302-B     Definitions.**

Applicant or Permit Applicant. The person who applies for a right-of-way work permit.

City Engineer. The Director of the Public Works Department of the City of Eugene, or the Director's designee.

Conduit. An underground pipe or other structure constructed and used to contain lengths of wire, cable or other transmission media. A conduit does not include pipes constructed and actively used for the purpose of conveying natural gas, water, stormwater, wastewater, or other liquids.

Elevation view. The above ground height and width of a structure when viewed from the center line of the public way at a point perpendicular to the structure.

GIS format. The format of electronic information, as established by the City Engineer for incorporation into the City's Geographic Information System (GIS).

Inspector. Public Works Department personnel assigned to administer the right-of-way work

permit program.

**Major Facility Upgrade.** The extension or reconstruction of any facility in which a wire, cable, conduit, or pipe greater than 400 linear feet in length is installed or replaced within the public way.

**Provider.** A permittee that is a municipal utility, franchisee, or licensee obligated to compensate the city for ongoing use of the public way for the provision of utility or telecommunications services.

**Right-of-Way Work Permit.** A permit to perform work in the public right-of-way. Permits may include, but are not limited to, Right-of-Way Cut Permits, Right-of-Way Use Permits, Utility Right-of-Way Use Permits, Tree Removal Permits, Traffic Control Permits and Temporary Surfacing Permits.

**Street Segment.** A portion of a street or alley not exceeding 400 feet, generally consisting of one standard City block.

**R-7.302-C Frequency of Opening the Public Ways - Notice Requirements.**

1. In order to reduce and mitigate the impact of street openings on the life and function of street and alley surfaces, and minimize the disruption in normal use of streets and alleys, the frequency and timing of the cutting of pavement is limited.

1.1 Cutting of street surfaces for installation of utility or communication facilities is prohibited for a period of five years from the time the street is constructed or resurfaced.

1.2 No street segment, irrespective of age or condition, shall be cut more than once in any 12 month period for placement of new facilities by those providers who received notice of prior street openings pursuant to R-7.302-C-2.

1.3 Exceptions to these prohibitions must be approved in writing by the City Engineer or designee, based on or subject to the following:

1.3.1 Requests for approval to open a street whose surface is less than five years old shall be reviewed and approved, approved with special conditions, or denied. Special conditions may include modified or increased pavement restoration requirements, landscaping, or other requirements to restore disturbed features.

1.3.2 Examples of conditions that may justify exceptions to the prohibition include: required excavation to locate existing facilities when installing a new facility by tunneling, boring, or pushing; or to provide necessary utility services to

a property where no other practicable alternative exists to provide such service.

1.3.3 In addition to the standard permit fees, a fee in an amount established by the City Manager pursuant to Section 2.020 of the Eugene Code, 1971 shall be imposed for review and issuance of an exception permit for cutting a street whose surface is less than five years old.

1.4 Notwithstanding the provisions of R-7.302-A above, in emergency situations verbal authorization may be granted by the Inspector in lieu of a written authorization for an exception to the street cut prohibitions. Emergency situations are those in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service to customers. Any verbal authorizations shall be subsequently documented in writing by the Inspector.

2. Notice Requirements. A provider planning to install a new facility, or perform a major facility upgrade, within the public way under a standard right-of-way cut permit, greater than 400 linear feet, shall provide notice to the City and all other utilities and license holders identified in the most recent list of providers published by the Inspector who are licensed or franchised to provide services within the project area. The purpose of this notification is to encourage collocation of facilities and minimize impacts on the public way. The notice is intended to provide other utilities and license holders an opportunity to install facilities in a joint trench or to coordinate work along the same street segment while not unduly interfering with the provision of services to the originating provider's customers. Notification timing and format will be determined by the initiating provider so long as the notification purpose and documentation requirements are met. This approach to notification will be monitored and periodically reviewed by the Inspector to determine efficacy in meeting the intent of these rules.

A copy of the current list of providers is attached hereto as Exhibit "B" for informational purposes only. The Inspector shall update the list as new providers become active within the City and provide a copy thereof to the providers reflected in the list.

Individual project notices shall be provided in a manner that documents receipt of notice by the appropriate utilities and license holders. The notice shall include the general anticipated location within the public way and nature of facilities to be placed, along with the proposed project schedule. The notice shall provide, at a minimum, 10 days advance notice excluding Saturday, Sunday, and legal holidays. The notice shall also state the date by which other providers must respond to the notice. Upon request, an applicant must provide the City with documentation of the applicant's notification to other utilities or license holders.

In addition, each January, providers shall submit to the City and all other providers a published list of proposed facility installation or major facility upgrade projects anticipated to occur within the following 24 months. The intent of this annual notification is to provide the City with adequate information to anticipate and manage impacts to the public rights-of-way, and provide other

providers with information helpful in planning for coordination of work and collocation of facilities. This provision is not intended to require that a provider's marketing plans or proprietary information be published or disclosed to other providers. If a provider determines certain information disclosed to the City to be proprietary, the provider may signify such on the information submitted and withhold that information from disclosure to other providers. The City will respect such designations and protect such information from disclosure to the extent allowed by law.

This provider-initiated notification process is not required for the installation of facilities within new developments that are creating new streets and being processed through the subdivision platting and public street improvement review processes. Through these public review processes a standard notification method is in place that provides opportunity for service providers to coordinate service delivery plans, co-locate facilities and coordinate work in conjunction with the new development.

**R-7.302-D Location of Above-Ground Facilities.**

1. **Applicability.** The standards contained in this section shall be utilized in the placement of above-ground facilities, including but not limited to junction boxes, controller cabinets, and central distribution boxes, in order to ensure that such facilities placed in the public way do not interfere with the transportation uses of street and alley rights-of-way or with public safety. The provisions of this section do not apply to pay telephones, above-ground wires, cables or lines, or associated poles or support structures located in the public way.

2. **Location Standards.** Except for street lighting facilities or traffic control devices owned by the City, the location of above-ground facilities must conform to all applicable provisions of the Eugene Code, 1971, adopted plans, the City's Manual on Utility and Right-of-Way Permits, Construction Within and Use of the Public Way, and the following standards:

2.1 **Maximum Size.** Facilities that are placed above-ground shall not:

2.1.1 Exceed 6 feet in height, or 6 feet in any width dimension.

2.1.2 Exceed 20 square feet "elevation view."

2.2 **Clearance Setbacks.** The minimum setback standards are:

Minimum Distance from Feature

<u>Feature</u>	<u>Feet</u>
Alley Intersection	15 feet
Courtesy walks/sidewalks	1 foot
Driveways	5 feet

Fire hydrants	5 feet
Street Trees	10 feet
Back Edge of Street Curb	1 foot
Street Intersections	35 feet
Manholes and Catch basins	5 feet
Drainage Ditches, Swales, Streams	5 feet
Street lights	10 feet
Regulatory signs	Not to block sign
Above ground traffic control facilities	10 feet

2.3 Maximum Number per Street Segment. In order to prevent above-ground facilities from unreasonably interfering with other uses of the public way the facilities may not exceed a maximum cumulative “elevation view” of 100 square feet for each side of a street segment as viewed from the street centerline.

2.4 Placement on Local Streets. Placement of above-ground facilities along local streets must conform to the provisions of the Eugene Local Street Plan and this rule. On local streets, above-ground facilities within the right-of-way shall generally be limited to fire hydrants and main line shut off valves, these facilities may be located between street trees when necessary, so long as their location allows for street tree planting requirements as detailed in R-7.280. If there is an existing public utility easement along the street right-of-way, it shall be the primary location for other above ground facilities. With prior approval of an exception by the City Engineer or designee, other above-ground facilities may be placed in appropriate locations within the rights-of-way if no other reasonable alternative is available.

2.5 Placement on Arterial and Collector Streets. Placement of above-ground facilities along arterial and collector streets must conform to the provisions of the Eugene Arterial and Collector Street Plan (specifically including compliance with adopted local street design standards as required therein), and this rule. On arterial and collector streets, above-ground facilities within the right-of-way shall generally be limited to fire hydrants and main line shut off valves, these facilities may be located between street trees when necessary, so long as their location allows for street tree planting requirements as detailed in R-7.280. If there is an existing public utility easement along the street right-of-way, it shall be the primary location for other above ground facilities. With prior approval of an exception by the City Engineer or designee, other above-ground facilities may be placed in appropriate locations within the rights-of-way if no other reasonable alternative is available.

2.6 Permit Denial. Failure of a proposed above-ground facility to conform to the location standards established in section R-7.302-D.2 shall be cause for denial of a request to place such facilities within the public way, or for a requirement to place a proposed facility underground, or partially underground.

2.7 The City Engineer or designee may grant an exception to the standards for maximum size and elevation view of above-ground facilities if the permit applicant establishes that the larger size is required to meet facility needs and no alternative industry-standard cabinet of enclosure is available. The exception must be in writing.

**R-7.302-E Undergrounding Requirements.**

1. If the permit is associated with new development, all utilities and communications facilities shall be located underground, at a minimum depth of 30 inches below the city-established street grade or alley grade and 30 inches below ground level in utility easements. Facilities installed in an area identified as a City plant strip shall be located underground, at a minimum depth of 36 inches below the city-established finish surface grade. The City Engineer or designee may approve installation at a depth less than the required depth if topography or other conditions warrant a modification.

2. A licensee or owner of above-ground wires, cables or lines that cross a right-of-way that is subject to a capacity-enhancing improvement project shall install underground conduit crossings at the time of the improvement project, at the licensee's or owner's expense.

3. A permit issued in connection with new development may contain conditions relating to utilities and communications facilities such as, but not limited to:

3.1 Standards for conduit size, location and capacity to be installed, that may vary for different areas of the City, the class of street, location, or other factors; and

3.2 Standards requiring the initial provider in an area to provide extra capacity for later providers, and a process that enables the initial provider to recover a portion of that cost from subsequent providers.

3.3 Prior to imposition of permit conditions relating to standards for conduit size, capacity to be installed, and for the provision of extra capacity, the City Engineer shall complete a standards development process, that provides an opportunity for interested parties to review and comment on such standards.

**R-7.302-F Common Trench and Co-location Requirements.**

1. In addition to the requirements of Section 7.302 of the Eugene Code, 1971 and these Rules for co-location of and undergrounding of facilities, providers shall utilize common trenches for placement of multiple provider facilities to be installed within the same street segment unless otherwise approved by the Inspector.

2. Providers shall comply with the notice requirements of R-7.302-C-2. of these rules. In addition, no street segment shall be reopened for placement of new facilities by those utilities or license holders who received notice pursuant to R-7.302-C-2. above within the subsequent 12 month period, without the written approval of the City Engineer or designee.

**R-7.302-G Provision of Facility Location Information.**

1. **Facility Locate service.** All providers must provide facility locate services in response to locate requests from excavators working in the area of underground facilities owned or operated by a provider. Providers must demonstrate the ability to provide such services by submitting documentation to the City showing proof of subscription to the Oregon Utility Notification Center along with evidence of resource commitments to locate service provision either through the capacity of provider employees or through contractual agreement with a locate service provider.

2. **Provision of Facility Map and Location Data.** All providers shall comply with the Mapping and Location Data requirements contained within the license agreements and the requirements of Section 3.420 of the Eugene Code, 1971.

**R-7.302-H Bonding and Indemnity Requirements.**

1. A public way restoration performance bond or security deposit shall be required for any project that involves the opening of greater than 400 linear feet of the public way. The bond or security deposit shall be in an amount determined by the applicant and verified by the City Engineer to be equal to the cost of restoring the public way. These costs could include such activities as trench backfill, compaction, pavement restoration and associated traffic control.

1.1 Permit applicants shall provide the City with cash, a surety performance bond that has been fully executed by the applicant and its surety, guaranteeing Applicant's obligations under this paragraph or another type of security acceptable to City, in its sole discretion. If applicant provides City with a bond, it shall be in a form acceptable to City, in its sole discretion.

1.2 A permittee may request the requirement of a public way restoration bond or security deposit be waived by the City Engineer or designee if the permit applicant has completed to the satisfaction of the City Engineer or designee a project of similar or greater magnitude within the past 24 months that was constructed under a right-of-way permit issued by the City of Eugene.

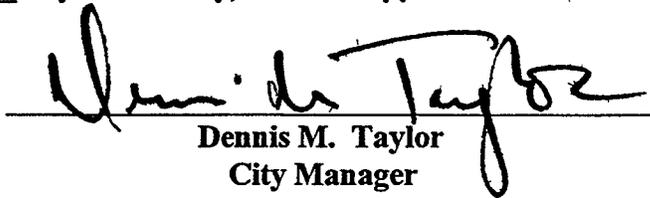
2. The permit applicant shall agree to indemnify and hold the City harmless from any loss, cost or damages arising out of or in connection with any activities associated with the permit.

The permittee is not required to indemnify and hold the City harmless for loss or damages caused by the City's negligence or intentional torts.

**R-7.302-I     Transfer of Telecommunication Licenses.**

In the event a telecommunications license is transferred under the conditions contained in Chapter 3 of the Eugene, Code 1971, the new licensee shall be responsible for all the previous licensee's outstanding agreements and obligations to the City regarding use of the public way. These shall include but not be limited to maintenance of restored utility trenches within the public way and completion of all work authorized by outstanding permits.

Dated and effective this 14<sup>th</sup> day of January, 2004.     D.J. TCC     RJL

  
\_\_\_\_\_  
Dennis M. Taylor  
City Manager

## EXHIBIT "B"

### Notification Contacts

City of Eugene Licensed and/or Franchised Utilities  
(potentially interested in joint trench opportunities)

#### **AT&T Long Distance**

Attn: Outside Plant Engineer  
22727 72nd Ave. South  
Building D, Suite 105  
Kent, Washington 98032  
FAX: (253)395-8879

*(notification not necessary for new  
residential subdivision projects)*

#### **Blachly-Lane Electric Co-Op**

Attn: Manager of Engineering & Operations  
90680 Hwy. 99 North  
Eugene, OR 97402  
FAX: (541)688-8958

#### **Eugene Water & Electric Board**

Attn: Engineering Manager  
P.O. Box 10148  
Eugene, OR 97440  
FAX: (541)484-3762

#### **Northwest Natural Gas**

Attn: Operations Supervisor  
P.O. Box 986  
Eugene, OR 97440  
FAX: (541)345-2402

#### **Qwest Communications**

Attn: Engineering Manager - Eugene Area  
112 E. 10<sup>th</sup>, First Floor  
Eugene, OR 97401  
FAX: (541)484-8010

#### **Advanced Telecom Group, Inc.**

Attn: Meredith Gifford  
6540 Powers Ferry Road  
Atlanta, Georgia 30339  
FAX (770)-644-7752

#### **City of Eugene**

Attn: Utility Inspector  
1820 Roosevelt Blvd.  
Eugene, OR 97402  
FAX: (541)682-4882

#### **Level 3 Communications**

Attn: Senior Dir., Network Dev.  
1025 El Dorado Blvd.  
Broomfield, CO 80021  
FAX: (303)215-8559

#### **Lane Electric Co-Op**

Attn: Engineer  
P.O. Box 21410  
Eugene, OR 97402  
FAX: (541)484-7316

#### **Comcast Cable Communications, Inc.**

Attn: Project Field Coordinator  
2897 Chad Dr.  
Eugene, OR 97408  
FAX: (541)431-3659

#### **Electric Lightwave**

Senior Outside Plant Engineer  
4400 NE 77<sup>th</sup> Ave  
Vancouver, Washington 98668  
FAX: (360)-816-0317  
*(New commercial development only)*

#### **University of Oregon**

Attn: Dave Barta  
1244 Walnut St  
Eugene, OR 97403  
FAX: (541) 346-5845  
*(University vicinity only)*

