

ORDINANCE NO. 1250

AN ORDINANCE OF THE CITY OF PALMER, TEXAS, ESTABLISHING REGULATIONS REQUIRING AN APPLICATION AND PERMIT PROCESS FOR WORK WITHIN THE CITY'S RIGHTS-OF-WAY; PROVIDING REQUIREMENTS FOR PERMITS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Palmer finds that the right-of-way, including but not limited to the streets, sidewalks, and utilities located therein are vital to the everyday life of its citizens, visitors and businesses; and

WHEREAS, the City of Palmer finds that there is limited available space in the right-of-way for the many competing uses of said space; and

WHEREAS, the City is charged with conserving the limited physical capacity of the public rights-of-way which are held in public trust by the City for the benefit of its citizens, visitors, and businesses; and

WHEREAS, the following regulations are necessary to assist in the management of facilities placed in, or over the public rights-of-way and in order to minimize the congestion, inconvenience, visual impact and other adverse effects that can occur during construction in the rights-of-way, and to manage costs to the citizens resulting from the placement of facilities within the public rights-of-way; and to govern the use and occupancy of the public rights-of-way; and

WHEREAS, the following regulations are necessary to preserve the physical integrity of the streets and highways; and to control the orderly flow of vehicles and pedestrians; and to keep track of the different entities using the rights-of-way to prevent interference between them; and to assist on scheduling common trenching and street cuts; and to protect the safety, security, appearance, and condition of the public rights-of-way; and

WHEREAS, orderly use and management of the rights-of-way is required for economic development; and

WHEREAS, the following regulations and necessary to preserve and protect the health, safety and welfare of the City of Palmer, Texas and its citizens, visitors, travelers, and businesses.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALMER, TEXAS, THAT:

SECTION 1.

Chapter 10 ("Streets, Parks, and Other Public Ways and Places") of the Palmer Code of Ordinances is hereby amended to include a new article, Article 10.04, "Right-of-Way Management" to read as follows:

§10.04.001 Title; Policy and Purpose

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

The City of Palmer enacts these regulations to manage the public right-of-way, to ensure public health, safety and welfare and to promote the most efficient use of the right of way first and foremost for the traveling public, and also for water and sewer uses and for utility uses designed to benefit the citizens of the City of Palmer, including such uses as have been recognized in statutory and common law in the State of Texas.

§10.04.002 **Construction; Governing Law; Venue**

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

All provisions of this article shall apply to all persons involved with the right-of-way, all work performed therein, any facilities maintained therein or any other matter as applicable.

§10.04.003 **Scope**

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

§10.04.004 **Definitions**

Director means the director of the public works department of the city or his or her designee, or another person authorized by the city manager to act as the director.

Emergency means a condition that: (1) Poses a clear and immediate danger to life or health, or an immediate and significant loss of property; or (2) Requires immediate repair or replacement of facilities in order to restore service to a customer.

Permittee: Any Person granted a permit under this Ordinance.

Person: Any individual, firm, corporation, utility, franchise holder, partnership, company, or other entity.

Street(s) or public way or public right-of-way(s) or right-of-way(s) means the surface of, and space above and below any public street, road, highway, freeway, land, path, public way or place, alley, sidewalk, boulevard, parkway, drive, or other easement now or hereafter under the jurisdiction of the City, to which the City holds the property rights in regard to the use for utilities.

Work: Any excavation, installation, construction, repair, maintenance, or other activity performed within the right-of-way.

§10.04.005 **Permit Required**

(a) No Person shall perform any Work in the right-of-way without first applying for and obtaining a permit from the City.

(b) Emergency Work may be performed without a permit, provided the Person notifies the City within 24 hours and applies for a permit immediately thereafter.

§10.04.006 Application for Permit

(a) Applications shall be submitted on forms provided by the City and shall include:

- (1) The name, address, and contact information of the applicant;
- (2) A description of the Work, including location, scope, and purpose;
- (3) Scaled plans or drawings showing the area of Work;
- (4) Anticipated start and completion dates;
- (5) Proof of insurance and bonding as required by the City;

(A) An applicant must provide proof of liability insurance in the amount of six million dollars (\$6,000,000); one million dollars (\$1,000,000.00) primary plus five million dollars (\$5,000,000.00) umbrella or other securities as acceptable to the director.

(B) The coverage must be on, an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards.

(C) Each policy must include a cancellation provision in which the insurance company is required to notify the City in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits.

(D) The applicant shall file with the Director, the required original certificate of insurance showing the City as an additional insured prior to any commencement of work. The certificate shall state the policy number; name of the insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts.

(E) Applicant shall file a surety bond which will be valid prior to the commencement of any construction through two full years after the completion of the construction from a surety company authorized to do business in the State of Texas in the amount of the estimated amount of the value of the work to be performed that year to guarantee that the restoration of the right-of-way in the event the applicant leaves a job site in the right-of-way unfinished, incomplete or unsafe.

(F) Proof of insurance requirements may be met by utilities with a current franchise or license agreement which provides for insurance or bonds at least in the amounts enumerated above, or where the current franchise or license agreement provides an indemnity in favor of the City.

(6) Payment of applicable fees.

(b) The City may require additional information as reasonably necessary to review the application.

(c) A request for a permit must be submitted at least 15 business days before the proposed commencement of work identified in the request, unless waived in writing by the Director.

§10.04.007 Conditions of Permit

(a) All Work shall be performed in compliance with applicable laws, ordinances, and City standards.

(b) The Permittee shall maintain safe conditions, including proper traffic control, signage, and barricades.

(c) The Permittee shall restore all right-of-way and affected property to its original condition or better, subject to City inspection and approval.

(d) The Permittee shall be responsible for any damage to City or private property caused by its Work.

§10.04.008 **Indemnity**

(a) As a condition of issuance of any permit, the Permittee shall indemnify, defend, and hold harmless the City, its officers, employees, and agents from any and all claims, damages, or liabilities arising out of or related to the Work performed in the right-of-way.

(b) This indemnity provision shall not apply to any liability resulting from the negligent or willful acts of the City, its officers, employees, agents, contractors, or subcontractors.

(c) The City shall not be responsible or liable for any damages to private property or public infrastructure resulting from the Work of a Permittee.

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

(e) A permit is automatically revoked if ownership of the facilities is transferred to any person under terms which do not subject the new owner(s) to the indemnity and hold harmless requirements of this article.

§10.04.009 **Penalty**

Any person, firm or corporation violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine in accordance with the general penalty provided in section 1.01.009 of this code for each offense; providing, however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law; and every day any offense is continued shall constitute a new and separate offense.

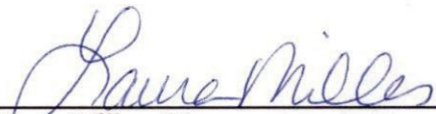
SECTION 2. That all provisions of the ordinances of the City of Palmer in conflict with the provisions of this Ordinance be and the same are hereby, repealed, and all other provisions of the ordinances of the City of Palmer not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part thereof decided to be unconstitutional, illegal, or invalid.

SECTION 4. This Ordinance shall become effective immediately from and after its passage and approval, and after publication as may be required by law.

DULY PASSED by the City Council for the City of Palmer, Texas on the 21st day of August, 2025.

CITY OF PALMER, TEXAS



Laura Miller, Mayor

ATTEST:



Erin Zaidle, City Secretary



APPROVED AS TO FORM:



Nicole Corr, City Attorney