

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3, "BUILDING REGULATIONS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 3, "BUILDING REGULATIONS", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 34 of the Charter of the City of College Station.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2005.

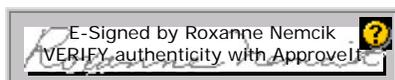
APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

APPROVED:



City Attorney

EXHIBIT "A"

That Chapter 3, "BUILDING REGULATIONS", Section 2, "RIGHT-OF-WAY MAINTENANCE", of the Code of Ordinances of the City of College Station, Texas, is hereby amended, by replacing paragraph F as set out hereafter to read as follows:

"F. REGISTRATION AND CONSTRUCTION PERMITS

- (1) **Registration.** In order to protect the public health, safety and welfare, all users of the right-of-way will register with the City of College Station. Right of way users who are telecommunications providers and pay annual blanket right-of-way fees pursuant to Chapter 283 of the Texas Local Government Code as amended or users who hold a valid franchise with the City are exempt from the payment of registration fees under this Ordinance. Registration and permits will be issued in the name of the person who owns the facilities. Registration must be renewed every five (5) years. For utilities with a current franchise or license, the franchise or license will be evidence of renewal. If a registration is not renewed, and subject to sixty (60)-day notification to the owner, the facilities of the user will be deemed to have been abandoned. When any information provided for the registration changes, the user will inform the City of College Station of the change no more than thirty (30) days after the date the change is made. Registration shall include:
- (a) The name of the user of the right-of-way;
 - (b) The name, address and telephone number of people who will be contact person(s) for the user;
 - (c) The name, address and telephone number of any contractor or subcontractor, if known, who will be working in the right-of-way on behalf of the user;
 - (d) The name(s) and telephone number of an emergency contact who shall be available twenty-four (24) hours a day;
 - (e) Proof of insurance and bonds:
 - 1. An applicant must provide acceptable proof of liability insurance in the total amount of Five Million Dollars (\$5,000,000.00); Two Million Dollars (\$2,000,000.00) primary plus Three Million Dollars (\$3,000,000.00) umbrella if requested by the owner of the facilities, or other provisions as acceptable to the director of financial services or his/her designee. The City Manager or his / her designee may waive or reduce the bonding requirements in a non-discriminatory, competitively neutral manner, taking into consideration both that the person has furnished the City with documentation sufficient in the sole discretion of the Finance Director to evidence adequate financial resources substantially greater than the bonding requirements, has a Standard & Poor's A bond rating or better or a Moody's A bond rating or better, and has demonstrated in prior right-of-way construction activity, prompt resolution of any claims and substantial compliance with all required applicable building codes and ordinances.
 - 2. The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premise liability, medical damages, underground, explosion and collapse hazards.

3. 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.
4. The applicant shall file the required original certificate of insurance 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.
5. Applicant shall file an annual surety bond which will be valid each year construction will occur through one (1) full year 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 cost to restore the right-of-way for the work anticipated to be done in that year, in the event the applicant leaves a job site in the right-of-way unfinished, incomplete or unsafe or other provisions as acceptable to the director of financial services or his/her designee.
6. The above requirements may be met by utilities with a current franchise or license if their current franchise or license adequately provides for insurance or bonds or provides an indemnity in favor of the City.

(2) **Construction permits.**

- (a) No person shall perform any construction or installation of facilities in the right-of-way without first obtaining a construction permit, except as provided herein. The permit will be in the name of the person who will own the facilities to be constructed. The permit must be completed and signed by a representative of the owner of the facilities to be constructed.
 1. The phrase "construction or installation of facilities" does not include the installation of facilities necessary to initiate service to a customer's property, or repair or maintenance of existing facilities unless such repair or maintenance requires the breaking of pavement; the closure of a nonresidential traffic lane; excavation or boring.
 2. Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however the City shall be notified in writing within two (2) business days of any construction related to an emergency response; including a reasonably detailed description of the work performed in the right-of-way and an updated map in a format prescribed by the City of any facilities that were relocated, if applicable.
 3. Emergency response permits are required only if a permit is required pursuant to the applicable provisions herein.
- (b) The permit shall state to whom it is issued, location of work, location of facilities, dates and times work is to take place and any other conditions established by the City.
- (c) The person requesting a permit will provide the City with documentation in the format specified by the City describing:
 1. The proposed, approximate location and route of all facilities to be constructed or installed and the applicant's plan for right-of-way construction.

2. Engineering plans which will be on a scale of one inch (1") equals fifty feet (50') unless otherwise approved by the City.
 3. Detail of the location of all right-of-way and utility easements that applicant plans to use.
 4. Detail of all existing City utilities in relationship to applicant's proposed route.
 5. Detail of what facilities the applicant proposes to install, such as pipe size, number of interducts, valves, etc.
 6. Detail of plans to remove and replace asphalt or concrete in streets (include City of College Station standard construction details).
 7. Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc. including depth located in public right-of-way.
 8. Handhole and/or manhole typical of types of manholes and/or handholes applicant plans to use or access.
 9. Complete legend of drawings submitted by applicant unless otherwise approved by the City.
 10. Four (4) sets of engineering plans must be submitted with permit application.
 11. The name, address and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual employed by the contractor who will be available at all times during construction. Such information shall be required prior to the commencement of any work.
 12. The construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the City.
 13. A statement that the requirements of Subsection F(1)(e)1 are met.
- (d) All construction and installation in the right-of-way shall be in accordance with the permit for the facilities and any approved plans and specifications made in connection with it. The City shall be provided access to the worksite and to such further information as may be reasonably required to ensure compliance with the permit.
- (e) A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the City at all times when construction or installation work is occurring.
- (f) All construction or installation work authorized by permit must be completed in the time specified in the construction permit. If the work cannot be completed within the specified time periods, the permittee may request an extension from the City. Extension requests are to be made at the same location where permits are issued. The City will use its best efforts to approve or disapprove a request for extension as soon as possible.

- (g) A copy of any permit or approval issued by federal or state authorities for work in federal or state right-of-way located in the City of College Station, if requested by the City.
 - (h) A request for a permit must be submitted at least ten (10) working days before the proposed commencement of work in the request, unless waived by the City in writing.
 - (i) Requests for permits will be approved or disapproved by the City within a five (5) business days of receiving all the necessary information. The City will use best efforts to approve or disapprove a request for permit as soon as possible. City will provide reason to permittee should permit be disapproved.
 - (j) The City or the applicant can request a pre-construction meeting with the permittee and their construction contractor.
 - (k) Permit applications are required for construction of new, replacement facilities or upgrading of the company's existing facilities in the right-of-way or public utility easement either aerial or underground.
- (3) **Registration and Construction Permit Fees**
- (a) The Registration Fee of \$50.00 will apply to those right-of-way users who do not pay annual blanket right-of-way fees.
 - (b) The Construction Permit Fee of \$850.00 will apply to those right-of-way users who do not pay annual blanket right-of-way fees."