

CHAPTER 21

STREETS, SIDEWALKS, AND OTHER PUBLIC AREAS

Article 1. Use and Obstruction

Sec. 21-1. Trees and Shrubberty to be Trimmed.

1. The owner of any premises abutting on any street shall trim all trees and shrubberty growing in the parking, between the sidewalks and the roadway, of any such street, and all trees and shrubberty growing on any part of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and alleys.
2. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubberty in the same manner as hereinbefore required of the owner.
3. Such trees and shrubberty shall be trimmed so that the lowest branches or foliage shall not be lower than ten (10) feet above the roadway of a street or alley, nor lower than eight (8) feet above the sidewalk.

Sec. 21-2. Penalty for Violation of Above Section.

1. Any owner or occupant who fails, refuses, or neglects to trim trees and shrubberty as provided in the above section, after receiving five days notice from the chief of police to do so, shall be guilty of an offense.
2. Every day that the owner or occupant fails, refuses, or neglects to trim such trees or shrubberty, after the expiration of the five days notice, shall be a separate offense.

Sec. 21-3. Unlawful to Injure Trees and Shrubberty.

It is unlawful for any person to injure any tree or shrubberty in a street or alley; provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubberty.

Sec. 21-4. Unlawful to Obstruct Sidewalks, Parkways, Streets, and Alleys With Merchandise, Etc.

It is unlawful for any person, firm or corporation to place upon or permit to be placed upon sidewalks, parkways, streets and alleys, any goods, wares, articles or merchandise, or any other obstruction, and leave same thereon; or to use the same as a place to carry on a business or trade.

Sec. 21-5. Unlawful to Obstruct Unduly Sidewalks and Streets.

It is unlawful for any person, firm or corporation to use or obstruct sidewalks in any manner so as to interfere unduly with pedestrian traffic thereon, or to use or obstruct streets and alleys in any manner so as to interfere unduly with lawful traffic and parking thereon.

Sec. 21-6. Unlawful to Deposit Trash, Etc., Upon Streets or Sidewalks.

It is unlawful for any person, firm or corporation to deposit, throw or sweep into or upon streets, alleys, parking or sidewalks any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes, or other refuse of any kind.

Sec. 21-7. Street, Etc., Obstructed So As to Interfere with Drainage.

It is unlawful for any person, firm or corporation to obstruct any street, sidewalk or alley, by placing any approach driveway or other obstruction or substance whatever that will obstruct or prevent the natural flow of water into the storm sewers or drains, or dam the same as to back any water upon the streets, alley, sidewalks or gutter.

Sec. 21-8. Unlawful to Play on Sidewalks and in Street.

It is unlawful for any person to play on sidewalks or upon the main traveled portion of streets and alleys, except as may be authorized by ordinance.

Sec. 21-9. Vehicles Not to be Washed on Street.

It is unlawful for any person to wash an automobile or any other vehicle in any street and it is hereby prohibited.

Sec. 21-10. Water, Mud, Etc., From Vehicle Not to Drain Onto Street.

No automobile or other vehicle shall be washed at any place where the water, dirt, mud or other substances removed therefrom by or during the washing thereof, shall drain onto or upon any street or sidewalks.

Sec. 21-11. Water, Etc., From Filling Stations and Other Businesses.

It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, upon, over, or across any sidewalk, parking, street, alley or other public way.

Sec. 21-12. Owner or Occupant Not to Permit Sidewalk or Sidewalk Area to Become a Hazard.

1. It is unlawful for any owner or occupant of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area adjacent to the property become a hazard to persons using the sidewalk or sidewalk area.
2. Such area shall be cleaned upon notification by city authorities.

Sec. 21-13. Excavations. *[Amended 9/2005, Ord. No. 05-1038; 4/2010, Ord. No. 10-1074]*

Sec. 21-13.1. Permit and Required.

Any work resulting in the cutting, excavation, removal, or replacement of a City street, alley, curb, drainage structure or sidewalk requires the issuance of a permit by the City Clerk. A separate permit is required for each cut or excavation. A street cut permit is required for work affecting the street surface and/or curbs and/or sidewalks.

1. In case of an emergency involving health or life safety issues, a cut may be made without a permit. The applicant has 48-hours to obtain the street cut permit after an emergency repair.
2. All City departments shall document construction, maintenance and repairs by completing a Permit application.

Sec. 21-13.2. Permit; Basis for Issuance.

Any person desiring to perform work of any kind in a City Right-of-Way within the City,

shall make application for a permit. The decision by the City to issue a permit shall include, among other factors determined by the City, the following:

1. The capacity of the Right-of-Way to accommodate the facilities or structures proposed to be installed in the right-of-way.
2. The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the Right-of-Way.
3. The public interest in minimizing the cost and disruption of construction from numerous excavations of the Right-of-Way.
4. The public interest in maintaining a reserve capacity in the Right-of-Way for other future public services.

Sec. 21-13.3. Permit Application Requirements.

Application for permit shall be filed with the City Clerk on a form or forms to be furnished by the City.

1. No person shall be eligible to apply for or receive permits to do work within the City Right-of-Way, except the following:
 - a. City Departments.
 - b. Contractors licensed by the state.
 - c. Providers; either licensed by the state as contractors or using contractors licensed by the state.
 - d. Providers with an active franchise agreement with the City; includes contractors used by such providers.
 - e. Property owners installing, replacing, or maintaining sidewalk, or driveway approach, or other work approved by the Street Commissioner, upon a portion of the City Right-of-Way adjacent to their residence; or
 - f. Persons offering a service which requires occupation of the City Right-of-Way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.

2. The City may deny the issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance that in the opinion of the City they will not consistently conform to the specifications or requirements of this ordinance.
3. When necessary, in the judgment of City Officials, to fully determine the relationship of the work proposed to existing or proposed facilities within the City Right-of-Ways, or to determine whether the work proposed complies with the specifications, the City may require the filing of engineering plans, specifications, and/or sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and/or sketches are filed and approved.
4. It shall be unlawful for any person to commence work upon any City Right-of-Way until the City has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this ordinance.
5. The disapproval or denial of an application by the City may be appealed by the Applicant to the City Council by filing of a written notice of appeal within ten (10) days of the action of the City Official. The City Council shall hear such appeal, if written request is timely filed, and render their decision within forty-five (45) days.
6. In approving or disapproving work within the City Right-of-Way, or permits therefore, in the inspection of such work; in reviewing plans, sketches or specifications; and generally in the exercise of their authority, City Officials shall act in such manner as to preserve and protect public Right-of-Way and the use thereof, but shall have no authority to govern the actions or inaction of the Permittees and Applicants or other persons which have no relationship to the use, preservation or protection of the public right-of-way.
7. Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a Permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this ordinance and under said permit.
8. Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the City limits, shall not be required to obtain permits from the City under the provisions of this ordinance, unless the work extends beyond the back side of the curb, or beyond any other designed jurisdictional boundary. Any City permit shall not be construed to permit or allow

work on another jurisdiction's roadway, within the City without a permit from that jurisdiction.

Sec. 21-13.4 Emergency Work.

1. Any person maintaining pipes, lines or facilities in the City Right-of-Way may proceed with work upon existing facilities without a permit when Emergency circumstances demand the work be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.
2. In the event that Emergency work is commenced on or within any City Right-of-Way during regular business hours, the City shall be notified within one-half hour from the time work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall insure that work is accomplished according to City specifications, the Manual on Uniform Traffic Control Devices and other applicable laws, regulations, or generally recognized practices in the industry.
3. Any person commencing Emergency work in the City Right-of-Way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of regular business day on which the City offices are open for business after such work is commenced. A permit for such Emergency work may be issued which shall be retroactive to the date when the work was begun.

Sec. 21-13.5 Safety Requirements.

Any person cutting a City Right-of-Way, sidewalk, drainage structure, or curb and gutter, shall be responsible for observing safety measures sufficient to protect the public from any and all harm during the full period of construction, and are liable for any damages or injuries incurred during the project. Safety Measures shall include at a minimum signage, barricades, and applicant/contractor contact information.

1. No more than one-half of the roadway can be closed at one time. Any lane or roadway closure must be specifically stated on application and approved by the Street Commissioner or other City Official.
2. Police and Fire departments, as well as E911 and or Ambulance service shall be notified by Permittee at least 24 hours in advance of any planned excavation requiring street closure or traffic detour.

3. Barricades and signage must meet ODOT (Oklahoma Department of Transportation) work zone standards and placement. At night, all barricades must be illuminated and signs must be reflective.
4. Where a job site is left unattended, before completion of the work, signage with minimum two inch high letters and shall be attached to a barricade or otherwise clearly posted at the site, indicating the Permittee's name, or company name, telephone number, and after hours telephone number.
5. It is the responsibility of the applicant to locate underground lines by dialing 811 or 1-800-522-6543 (OKIE), or visiting www.callokie.com. All safety precautions must be used according to OSHA and the Oklahoma Department of Labor Standards.
 - a. Once the required permits are received and the all utility locates are done, then cutting may proceed.
6. Work site clean-up is required.
7. Excavated material will be stockpiled out of the movement of traffic and pedestrians and marked by barriers three feet high, minimum.
8. In areas where excavations remain open or debris is present overnight, protective barriers with lights (equivalent to barricades) shall be provided. Lights will be flashing or steady burn and shall be on at least from dusk to dawn. Work areas longer than fifty feet (50') shall be protected by barriers placed every five feet (5').
9. If a hazard to the public exists, all excavated materials and debris shall be removed from the right-of-way at the end of each day's operation. The contractor shall contact the appropriate city official for a determination.
10. Flagging tape is required in areas of sidewalk excavation.
11. Excavated material shall also be stockpiled in a manner that will not cause water to back up along the gutter, ditch or the edge of pavement.
12. All work shall be done in a manner that protects the safety of the workers as well as the general public. All rules and regulations pertaining to shoring, barricades, traffic control, and other similar matters shall be followed. Any safety hazard noticed by a City employee shall be promptly corrected.
13. The Permittee and contractor shall hold the City harmless from liability, loss, expense, claims, demands and actions as a condition of permitting.

Sec 21-13.6. Inspections.

Any person who is granted a City Excavation/Cut Permit shall receive a minimum of two inspections.

1. The first inspection is the Preliminary inspection. This inspection is to meet on site to discuss the project and any requirements for the project and to list required follow-up inspections. A City Cut Permit is not considered valid and no work shall be performed until this meeting has been held.
 - a. Preliminary photographs shall be taken, dated, signed by parties and filed with application.
2. A final inspection is required upon completion of the work to ensure work is satisfactory to the City. Applicant shall call and schedule inspections with the appropriate City Official at (918) 465-5361.
 - a. Photographs of the completed work shall be taken, dated, signed by both parties documenting the completion of the project.
 - i. Photographs of temporary patches are also required.

Sec. 21-13.7. Excavations and Impact on Existing Improvements.

Methods used in excavation shall not cause damage to surrounding property or damage remaining pavement and other existing improvements that are to remain. Outriggers for excavation equipment, and other heavy equipment, shall be fitted with street pads to prevent pavement damage.

1. Permittees whose work will affect existing sidewalks must understand that the existing sidewalk once disturbed shall be replaced and not reused.
2. If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided.
 - a. Said temporary improvement shall be safe for travel and convenient for users, and consistent with City standards for such.
3. Any cuts made across a paved road must first be saw cut on neat lines parallel and equidistant from the trench centerline. The width of the saw cut shall not be any greater than is required to properly allow for excavation, pipe, and/or necessary work and not damage the edges of the pavement left in place. It is not

permitted, under any circumstances, to use a backhoe, trencher, or ripper to dig through the pavement portion of the roadbed.

4. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are complete.
5. At any time a Permittee disturbs the yard, residence or the Real or Personal property of a private property owner of the City, such Permittee shall insure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work
 - a. The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the Permittee. Further, the Permittee shall reimburse a Property Owner or the City, for any actual damage caused by the Permittee, its subcontractor, or its independent contractor, in connection with the disturbances of such property.
 - b. However, nothing shall require the Permittee to pay a subscriber or private property owner when the subscriber or property owner requests that the Permittee remove, replace or relocate improvements associated with the service provided by the Permittee to the property owner and when the Permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the Permittee on which the Permittee relied to its detriment.
 - c. Examples of types of acts specifically included in this Section are the following:
 - i. Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence to install, trench, repair, replace, remove or locate, equipment, cable or other Appurtenances of the Permittee;
 - ii. Installation or removal of equipment or other appurtenances of the Permittee's System within a private Property Owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the Permittee;
 - iii. Temporarily relocating or moving a piece of personal property or a fixture of a Private property owner (such as a motor vehicle, fence, air conditioning, heating unit, etc.) in order to perform some sort of construction, maintenance or repair by the Permittee; or

- iv. Permanently removing a Permittee's equipment or other appurtenances due to the revocation, termination or non-renewal of the franchise (if applicable).
- d. Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the City prior to the blockage of the channel.
- e. The requirements imposed upon the Permittee extend to any subcontractors or independent contractors that the Permittee might employ to perform the tasks pursuant to the permit.

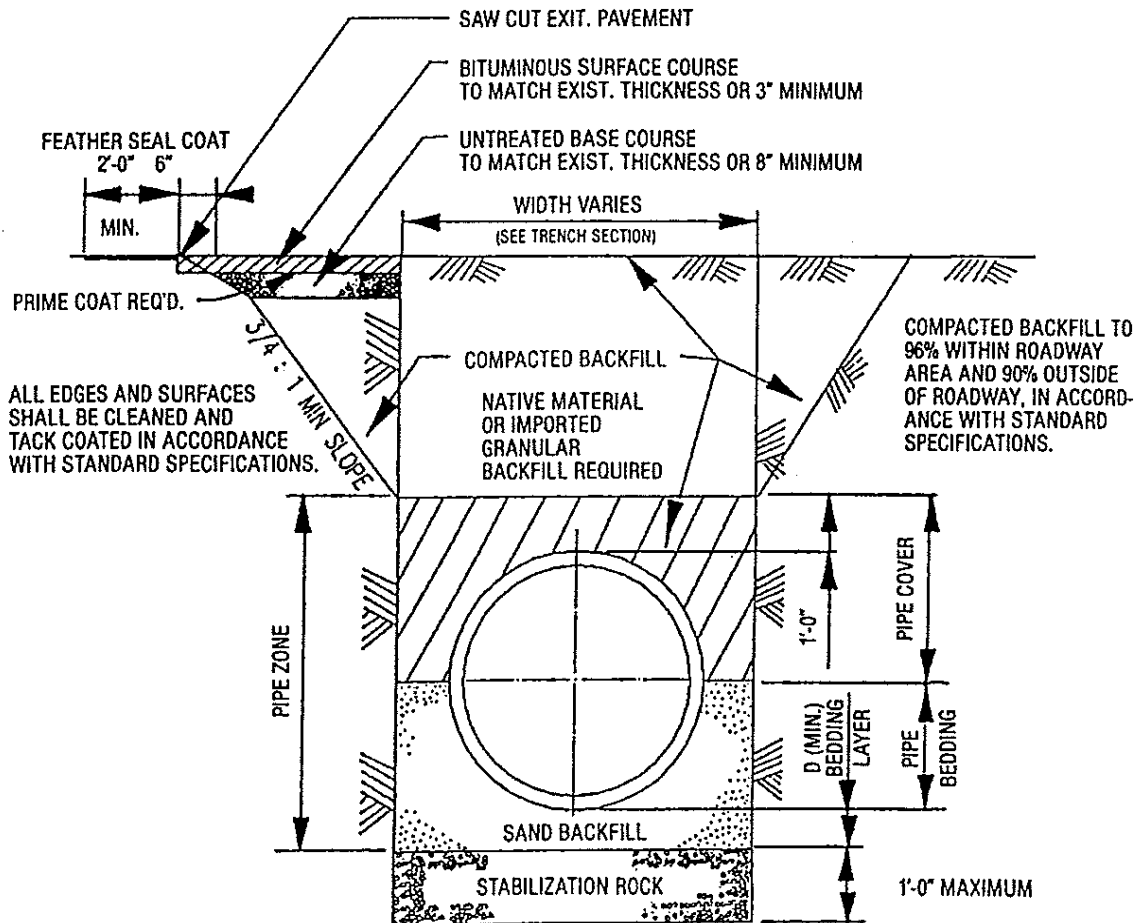
Sec. 21-13.8. Restoration of Public Property.

The Permittee shall, at its own expense, restore any and all improvements in the City Right-of-Way to its original or better condition, as specified by the City of Wilburton within the time limits set forth in the permit, unless additional time is granted in writing by the City.

1. The Permittee must use proper erosion control measures.
2. All traffic striping and/or markings removed by excavation work shall be replaced.
3. Curb cuts shall extend to the nearest full depth crack or joint. Removal of curb or gutter will be made so as to not disturb the sub base.
4. Trenched construction and backfill must provide for restoration of the structural integrity of the road, security against deformation, assurance the trench will not be a drainage channel, and assurance that backfill will not block normal drainage or cause damage to pipe.
5. Whenever the bottom of the trench is soft or rocky, or, in the opinion of the City, otherwise unsuitable as a foundation for pipe bedding, the unsuitable material shall be removed to a minimum depth of six inches (6") and replaced with crushed rock, gravel, or sand as directed by the City.
6. When the trench bottom is cobbled or of any other material which might, in the opinion of the City, allow loss of sand backfill, the backfill material shall be crushed rock or gravel graduated so that one hundred percent (100%) will pass

- the three-quarter inch (3/4") sieve and not more than fifteen percent (15%) will pass the number 8 sieve.
7. The backfill material may be native material excavated at the work site if the trench depth is greater than four (4') feet measured from the top pipe to the finished road surface. Such materials must be clean, unfrozen and free of dirt and organic or other unsuitable materials as determined by the City that may cause voids or depressions to develop during or after placement of the backfill.
 - a. Rocks, stones and solid earth chunks exceeding three inches (3") in greatest dimension shall be removed from the trench backfill material.
 - b. Trench backfill material shall be placed in layers not exceeding eight inches (8") in depth before compaction at or near optimum moisture content. Until the total backfill above the top of the pipe exceeds three feet (3'), machine-placed backfill material shall not be allowed to "freefall" more than two feet (2').
 8. The backfill material for trench depths less than four feet (4') measured from the top pipe to the finished road surface shall be imported granular material, uniformly graded Class 2 aggregate base.
 - a. The imported granular material shall be placed in lifts not to exceed six inches (6") after compaction. Compaction requirements for imported granular material shall be the same as required for compaction of job excavated native material.
 9. Compaction of all backfill material shall be by mechanical pneumatic or vibratory compaction equipment. Pounding and jetting methods will not be permitted, except by written evaluation and approval by City Engineer.
 10. Backfill material shall be compacted to a relative compaction of not less than ninety percent (90%), as determined by ASTM Designation: D 1557. The top six inches (6") below sub grade shall be compacted to a relative compaction of ninety-five percent (95%), except that trenches in easements outside the street rights-of-way may be compacted to ninety percent (90%) relative compaction throughout the depth.
 11. Excavation in all alleys, streets, sidewalks, curbs, and gutters shall be formed by saw cuts to the full depth of that particular surface.
 12. Street cuts shall be widened a minimum of 12" on each side of the excavation prior to placing the backfill. In areas where concrete or concrete base courses exist, standards as pertaining to Class B pavement patching shall apply.

13. If the cut is to be repaired with asphalt and hot mix asphalt is not available, there are two temporary alternatives for interim rehabilitation of the top three (3) inches of the cuts:
- a. Repair the street cut with cold mix asphalt and as soon as hot mix is available, remove the cold mix and replace it with hot mix.
 - b. Repair the street cut with flow fill and as soon as hot mix asphalt is available, remove the flow fill and replace it with hot mix asphalt.
14. Any work performed from November 15 until April 15 shall be subject to conditions for winter work, including the installation of a temporary patch during this period, and removal and replacement with a permanent patch after April.
15. From the date of completion of restoration, the Permittee shall be held responsible for any and all repairs to said street cut for the period of two (2) years. Should a complaint be made with regard to the street cut, it must be repaired with fifteen (15) days of notification or the City will make the necessary repairs and bill the Permittee for the work.
- a. Should the City of Wilburton be required to repair and/or maintain a City Right-of-Way cut, due to failure of the contractor or property owner to repair and/or maintain a right-of-way cut, the Permittee or property owner will be billed for labor, materials, and equipment costs involved in the repair and/or maintenance of the right-of-way cut.
 - b. Contractors that fail to repair cuts shall lose their privilege to work in the City Limits of Wilburton for two (2) years.



TRENCH SECTION FOR BACKFILL AND COMPACTION For City of Wilburton

Diagram 1

Sec. 21-13.9. Damage to Service Lines.

1. Report of damage. Any Person who in any manner, damages or injuries any water or sewer pipes within the City shall, within twenty-four (24) hours after said damage occurred, report said damages to the City, giving the following details:
 - a. The name and address of the person committing the damage.
 - b. The name and address of the person on whose property the damage has occurred.
 - c. The location of the damage; and
 - d. The time at which the damage occurred.
2. Inspection of damage, bill for repair. All reports of damage to water and/or sewer pipes received pursuant to subsection (1) above shall be referred to the Water Maintenance Superintendent. The Water Maintenance Superintendent or designee shall examine the damage and, if the damaged water and/or sewer pipes belong to the City, he shall, on the basis of the report made, send a bill to the Permittee for the amount of money reasonably required to repair such damage. Said bill shall be sent to the person within ten (10) days after the report of damage is received.
3. Payment of repair costs. The Permittee shall pay the same in full to the Wilburton Public Works Authority within fifteen (15) days after receiving said bill.

Sec. 21-13.10. Buried Utilities.

1. Any wires, cables, waterlines, gas lines, sewer lines or any other buried item must be at least two (2) feet below the surface of the ground when covered. All such buried items must be suitably identified so as to be easily located.
 - a. The City of Wilburton is in no way to be held liable for any damage to any items buried within the City right-of-way during the normal course of Permittee's maintenance and/or repair.

Sec. 21-13.11. Crossing Culverts.

1. In crossing any culvert, the buried items must be at least twelve (12) inches below the bottom of the culvert. Buried items will not be permitted on top of a culvert

under any circumstances. The City must approve any items that are to be attached to any City Right-of-Way.

Sec. 21-13.12. Insurance, Bonds & Fees for Cuts.

1. Insurance. Before a permit is issued, the Applicant shall furnish to the City evidence that the applicant or Contractor has a comprehensive general liability and property damage policy that includes contractual and general liability coverage endorsed with the following limits and provisions:
 - a. A minimum of One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than Two Million Dollars (2,000,000) in the aggregate. The coverage shall be in the nature of Broad Form Commercial General Liability coverage and shall name the City, its employees, officials, volunteers and agents as additional insured's.
 - i. The City may increase minimum insurance limits, depending on the potential liability of any project.
 - b. Underwrites shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
 - c. The insurance companies issuing the policy or policies shall have no recourse against the City for payment of any premiums due or for any assessments under any form of any policy.
 - d. Each policy shall be endorsed to indemnify, hold harmless and defend the City and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the Permittee, his subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way had been opened to public travel.
 - e. Each policy shall be endorsed to indemnify, hold harmless and defend the City, and its officers and employees against any claim or loss, damage or expense sustained by any Person occurring by reason of doing work pursuant to the permit including, but not limited to falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until work is completed and right-of-way is opened for public use.

- f. The Permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All overages for subcontractors shall be subject to all the requirements stated herein.
 - g. A property Owner performing work adjacent to his/her residence may submit proof of a homeowner's insurance policy.
 - h. A provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances, if such company shall submit satisfactory evidence in advance that:
 - i. It is insured in the amounts set forth herein, or has complied with State requirements to become self insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submission for each permit; and
 - ii. Said coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this ordinance.
2. Bonds. Each Applicant, before being issued a permit, shall provide the City with an acceptable corporate surety bond; the minimum amount of \$5,000 to guarantee faithful performance of the work authorized by a permit granted pursuant to this ordinance.
- a. The amount of the bond required may be increased at the discretion of the City whenever it appears that the amount and cost of the work to be performed exceeds the minimum amount.
3. Utility companies, and contractors who will be performing a substantial number of cuts in City Right-of-Way per year, will be required to post a bond of \$50,000. This bond will be renewed annually and will be used in the event the City is required to repair the various cuts in City Right-of-Way.
4. The bond required by this Section shall be conditioned as follows:
- a. That the Permittee shall fully comply with the requirements of the specifications relative to work in the City right-of way, and respond to the City in damages for failure to conform therewith;
 - b. That after work is commenced, the Permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the City

Right-of-Way in accordance with specifications, so as to not obstruct the public place or travel thereon more than is reasonably necessary;

- c. That the Permittee shall guarantee the materials and workmanship for a period of two (2) years from the completion of such work, with reasonable wear and tear expected;
- d. The Permittee will be given the opportunity to make the needed repairs before the City will take action. Any expense incurred by the City will be taken from the posted bond.

5. Permit Fees. The City shall charge and the Permittee shall pay upon issuance of the permit, non-refundable fees according to fee schedule outlined below.

- a. Such fees are to cover the costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the City-Right-of-Way or diminution of the useful life of the City Right-of-Way, and other costs to the City associated with the work to be done under the permit.
- b. Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by the City to each Permittee, in addition to the permit fee.
- c. Fee Schedule.

Application Fee	\$ 25.00
Cutting two (2) lanes of a paved City Street	\$ 200.00*
Cutting one (1) lane of paved City Street	\$ 100.00*
Cutting Unpaved alleys or other areas	\$ 100.00*
Sidewalk Replacement (private residence)	\$ 30.00
Sidewalk Replacement (Commercial)	\$ 30.00*
Curb and Gutter (private residence)	\$ 40.00
Curb and Gutter (Commercial)	\$ 40.00*

Fees for cuts that are lateral to City Streets are as follows:

Cuts in Asphalts	\$ 3.00 per linear ft*
Cuts in Non-Asphalt	\$ 1.00 per linear ft*

**Requires minimum of \$1,000,000 Liability Insurance Policy. A copy of which must be included with Permit Application.*

Penalty Fee. Shall be two (2) times the applicable Permit Fee(s) and shall be in addition to the appropriate Permit Fee according to the above schedule.

Sec. 21-13.13. Hold Harmless Agreement; Limitation on City Liability.

1. Each excavation permit application shall contain the following language, to which each Permittee shall agree in writing prior to issuance of a Permit: “The Permittee agrees to save the City, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any negligence or other wrongful act under the permit.”
2. This ordinance shall neither be construed as imposed upon the City, its officers, employees and agents, any liability or responsibility for damages to any Person injured by or by reason of the performance of any work within the City Right-of-Way, or under a permit issued pursuant to this ordinance; nor shall the City, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

Sec.21-13.14. Work without a Permit - Penalty.

1. A stop order may be issued to any Person or Persons doing or causing any work to be done in the City Right-of-Way without a permit.
2. Any Person found to be doing work in the City Right-of-Way without having obtained a permit, as provided in this ordinance, shall be required to pay a permit fee, as well as appropriate penalties.

Sec. 21-13.15. Failure to Comply; Default in Performance.

1. Any permit may be revoked or suspended and a stop order issued after notice to the Permittee for:
 - a. Violation of any condition of the permit, the bond, or of any provision of this ordinance;
 - b. Violation of any provision of any other ordinance of the City or law relating to the work; or
 - c. Existence of any condition or the doing of any act which does constitute, may constitute, or cause a condition endangering life or property.
2. A suspension or revocation, and a stop order, shall take effect immediately upon entry thereof by the City Official and notice to the Person performing the work in the City Right-of-Way.

- a. Notice to the Person performing the work shall be accomplished when the City Official or designee has posted a stop work order at the location of the work.
 - b. Subsequent to posting a stop work order a written notice will be mailed, return receipt requested, to the address indicated by the Permittee on the permit.
3. Whenever the City finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the City to be reasonably necessary for the completion of the work.
4. In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of persons and property), fails to either to commence and cause the required work to be performed with due diligence, or to indemnify the City for the cost of doing work, as set forth in the notice, the City may perform the work, at the discretion of the City, with City forces or contract forces or both, and suit may be commenced by the City against the contractor and bonding company and such other Persons as may be liable, to recover the entire amount due to the City, including attorney fees, court and other costs, on account thereof.

Sec. 21-13.16. Failure to Conform to City of Wilburton Specifications.

1. For failure to conform to the specifications, the City may;
 - a. Suspend or revoke the permit;
 - b. Issue a stop order;
 - c. Order removal and replacement of faulty work'
 - d. Require an extended warranty period; and/or
 - e. Negotiate a cash settlement to be applied toward future maintenance costs.

Sec. 21-13.17. Tampering with Traffic Barricades.

It shall be unlawful for any Person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site.

Sec. 21-13.18. Conflict with Governing Provisions.

Should there be a conflict between the provisions of this ordinance and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a City Right-of-Way, the more restrictive provisions of the aforesaid documents shall apply.

Sec. 21-13.19. Violation – Penalty.

Unless otherwise specified in this ordinance, a violation of any provision of this ordinance or failure to comply with an order of suspension, revocation or stop work, shall be a misdemeanor. Each day any permit violation exists shall be a separate offense. Penalties will be assessed to the Permittee according to the Fee Schedule for each day the violation exists.

Sec. 21-14. Open Grating.

It shall be unlawful and an offense for any person to permit to be open or leave open any cellar door, manhole or grating of any kind in or upon any street, sidewalk or alley of the city.

Sec. 21-15. Drainage of Polluting Substance Into Streets, Alley, or Sidewalks Prohibited.

It shall be unlawful for any residence or business to allow drainage of a polluting substance into any street, alley or sidewalk. A polluting substance is one defined under 82 O.S. 926.1.

Sec. 21-16. Vacating Streets.

1. Any one that feels that city has no further use for the property that is plated or otherwise described as an easement or other means may upon written request ask the city council to consider vacating such street or easement.

2. Whatever the outcome of city council it must be taken through District Court to be fully vacated as set fourth in Title 11 of the Oklahoma State Statues (Section 101-115).



Article 2. Penalty

Sec. 21-17.Penalty.

Any violation of this article shall be deemed a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed two hundred fifteen dollars (\$215.00) including costs.

