

ORDINANCE NUMBER 15-O-073

AN ORDINANCE TO AMEND CITY CODE, CHAPTER 74 – STREETS AND SIDEWALKS SECTIONS 74-284, 74-286, 74-288, 74-290, 74-292, 74-296, AND 74-297 CONCERNING PERMITTING AND SURETY REQUIREMENT FOR WORK PERFORMED IN THE CITY’S RIGHT OF WAY

BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that Chapter 74, “Streets and Sidewalks” of the Code of the City of Suffolk, Virginia, be and hereby is amended to read as follows:

Sec. 74-284. - Contents and provisions.

- (a) Permits issued under this division shall specify the manner and the conditions under which the permit work shall be done. Where the work or installation contemplated will or may disturb or obstruct any natural or artificial drainage medium, including ditches, storm sewers, ravines and the like, the permit shall specify the manner in which the surface water shall be controlled during the progress of work and thereafter, if the disturbance or obstruction is of a permanent nature.
- (b) Unless otherwise specified in the permit, every permit issued shall be deemed to include the following provisions:
 - (1) Public travel is to be blocked or altered, only in the manner and as specified in the permit.
 - (2) Pavement is to be used for piling or storing of excavated material or for deposit of material and the placing of equipment only as specified in the permit. All materials and/or equipment, including signage, shall be removed from city streets and sidewalks daily, unless specifically approved otherwise.
 - (3) The maximum amount of ditch, trench or other excavation to be opened at one time shall not exceed 500 200 linear feet, including backfilled portion of any trench which is not in condition for public travel, unless the city manager finds reason for exception.
 - (4) All backfilling of excavations shall be ~~done to a 95 percent density compaction. Compaction by using water is not permitted.~~ performed following the requirements set forth in the current edition of the City of Suffolk Public Facilities Manual, VDOT Road and Bridge Specifications (current edition), or as directed by the City of Suffolk.
 - (5) ~~On~~ For open pavement cuts, the pavement shall be restored to its former dimensions, cross sections and profile with material conforming to city specifications. Open pavement cut shall be restored daily, unless specifically approved otherwise.
 - (6) No tree roots shall be cut to the extent of rendering the tree unsafe; and, if possible, tunneling through or under roots instead of cutting anchor roots shall be required.

- (7) Shoulders, ditches and drainage medium shall be left in the same condition as found, or as specified in the permit.
- (8) The permittee agrees to repair any ~~sinks~~ defects in the backfill or pavement, occurring within two years after the work done under the permit is completed.
- (9) ~~If entrances to adjacent property are affected, the permittee shall, if practical, provide temporary facilities for safe ingress and egress to such property.~~
Access to adjacent properties shall be maintained at all times. In the event that temporary facilities for safe ingress and egress are required, the affected property owners shall be notified in advance.
- (10) The permittee agrees to restore the street to a satisfactory condition consistent with ~~adjoining sections of the street~~ the City of Suffolk Public Facilities Manual, or as directed by the city manager or his designee.
- (11) The permittee agrees, by the acceptance of the permit, to indemnify, keep and hold the city free and harmless from liability on account of injury or damage to persons or property growing out of any activity authorized by the permit, whether suit is brought against the city either independently or jointly with the permittee.
- (12) The permittee agrees, by the acceptance of the permit, upon notice in writing, to remove or relocate any structure or installation placed in, on, under or over any street if such structure or installation in the opinion of the city manager interferes with the use of the streets.
- (13) The permittee is responsible for ensuring that all utility marks are removed within 20 days after completion of work. If the utility marks are not removed by the time specified herein, the city will consider the marks as graffiti. The city, in accordance with existing city ordinances, may remove graffiti, and the costs associated with such removal will be the responsibility of the contractor or permittee. The city shall have the right to suspend further permits to contractor or permittee until the utility marks are removed.
- (14) The permittee shall promptly report to the city manager when he has completed the work authorized under the permit.

Sec. 74-286. - Emergency permits.

The city manager is authorized to issue an emergency permit to allow work governed by this division, which requires immediate attention, to proceed before the permit application is completely processed. However, the issuance of said permit shall not be deemed a waiver of the requirements to complete the work in accordance with this chapter.

Sec. 74-288. – Minimum fees.

Minimum permit and inspection fees shall be required, and are not refundable for work governed by this article in accordance with a schedule established by the city council and on file in the city clerk’s office. For the issuance of such a permit, the applicant shall pay application and/or inspection fees in accordance with the city’s adopted fee schedule.

Sec. 74-290. - Surety required.

Before any permit shall be issued to any person to cut, undermine, disrupt or disturb in any manner the paved or improved surface, including shoulders, sidewalks, curbs and gutters, of any street or property of the City of Suffolk, evidence of contractors' public liability insurance, or in lieu thereof, cash or an irrevocable letter of credit in the amount of \$50,000.00, in the form approved by the city attorney, payable to the city with surety conditioned to indemnify and save harmless the city, as well as any other person, from all liability, expense and damage to persons or property growing out of the activity to be authorized by such permit; and in addition thereto, the permittee shall give to the city cash or an irrevocable letter of credit ~~in an amount equivalent to the value of the work to be undertaken, but not less than \$10,000.00~~ in accordance with the table outlined below in the form approved by the city attorney, payable to the city, with surety, conditioned to indemnify and save harmless the city from all expense and damage for work done pursuant to the permit and for failure to replace and restore the street to its original condition. Based upon the scope of work proposed, or at the discretion of the city manager, or his designee, a maintenance bond may also be required for a term of two years from final completion of a project. The amount of the bond shall be sufficient to assure the satisfactory condition of the required public improvements.

Surety requirements for work for which a permit is required by this article shall be in accordance with the following schedule:

	<u>Type of Project</u>	<u>Minimum Surety Requirement</u>
(1)	<u>Logging roads, and other temporary entrances</u>	<u>In accordance with total estimated project cost; minimum \$2,500 per entrance or \$10,000 continuous annual surety</u>
(2)	<u>Single Residential Driveway aprons</u>	<u>\$0.00</u>
(3)	<u>All other work</u>	<u>In accordance with total estimated project cost ;minimum of \$10,000</u>

In the event that the scope of work changes or unforeseen circumstances arise during the course of the project, the city manager, or his designee, reserves and shall have the right to require an increase in the surety amount to reflect the new total estimated project cost.

The city manager, or his designee, reserves and shall have the right to require Construction Record Drawings in accordance with the City of Suffolk Public Facilities Manual prior to the release of the surety.

Sec. 74-292. - Mail and newspaper boxes.

Mail and newspaper boxes may be placed in the streets without obtaining a permit, provided that all such boxes shall be so located as not to interfere with or endanger public travel or maintenance on such streets. Any such box so located as to interfere with or endanger public travel or maintenance on such streets shall be moved to an approved location upon reasonable notice from the city manager. Failure to remove such boxes after such notice has been given shall constitute a violation of this division. Failure to remove such rack or stand after such notice has been given shall constitute a class 4 misdemeanor, punishable as provided in subsection 1-14(4).

Sec. 74 – 296. - Issuance for logging roads and other temporary entrances.

The city manager or his designee may issue a permit under this division authorizing the installation of a logging road or other temporary private entrance. For the issuance of such a permit, the applicant shall pay application and/or inspection fees in accordance to the city's adopted fee schedule. The surety requirement for such an entrance shall be in accordance with section 74-290. No such surety shall be released until the entrance and all impacted public rights of way has been restored to pre-activity condition and inspected by the city manager or his designee to assure that the work done and/or completed conforms to the permit issued. A pre-activity condition inspection by the city manager or his designee may be required. In addition to all other applicable requirements of this division, drainage within the public right of way shall not be disrupted and the permittee shall maintain erosion and sediment control measures within the public right of way during said operations; failure to do so will result in the revocation of the permit.

Sec. 74 – 297. –Driveway permits.

(a) No person shall construct or rehabilitate a driveway entrance within the city right of way without first obtaining a permit therefore from the city manager or his designee.

- (b) The city manager or his designee shall issue a permit for any such driveway entrance within the city right of way not exceeding thirty (30) feet in width if the same meets with the approval of the city manager or his designee; provided, however, that the city manager or his designee may issue a permit for a driveway exceeding thirty (30) feet in width, if and when it is deemed that such driveway is appropriate.
- (c) For the issuance of such a permit, the applicant shall pay application and/or inspection fees in accordance to the city's adopted fee schedule.
- (d) Where the work or installation contemplated will or may disturb or obstruct any natural or artificial drainage medium, including ditches, storm sewers, ravines and the like, the permit shall specify the manner in which the surface water shall be controlled during the progress of work and thereafter, if the disturbance or obstruction is of a permanent nature. All such driveway entrances within the city right of way shall be constructed under the supervision of the city manager or his designee subject to such conditions as he may prescribe as to materials used and manner of construction, and all paving and repaving, where necessary, shall be done at the expense of the person receiving such permit. It shall be the duty of the owner of such driveway to keep any existing paved or improved surface, including shoulders, sidewalks, curbs and gutters, of any street or property of the City of Suffolk that is cut, undermined, disrupted or disturbed in any manner in good repair at his own expense.
- (e) Any person violating any provision of this section shall be guilty of a Class 4 misdemeanor, punishable as provided in subsection 1-14(4).

BE IT FURTHER ORDAINED that this ordinance shall be effective upon its passage.

READ AND PASSED: JULY 15, 2015

TESTE: _____
Erika S. Dawley, MMC, City Clerk