

FILED

MAY 31 2024

CITY CLERK

GENERAL ORDINANCE NO. 10, 2024

AN ORDINANCE AMENDING THE *TERRE HAUTE CITY CODE*, CHAPTER 8, ARTICLE 5.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute that the *Terre Haute City Code* shall be modified as follows:

SECTION 1. *Terre Haute City Code*, Chapter 8, Article 8 is hereby amended by inserting the underlined text and removing the stricken text as follows:

Sec. 8-121 Permit for Work Within the Right-of-Way.

a. No person or entity shall dig up, cut into, improve, repair, obstruct, or remove any portion of the City right-of-way, for any purpose whatsoever, except in cases of emergency, unless application is made to the Department of Engineering for permission therefore at least seven (7) days prior to planned work. All applications shall state the full name and address of the applicant, shall verify a valid license issued under Sec. 8-120, shall designate the place, extent, and purpose of such work, and shall be accompanied by a fee as hereinafter provided. At the request of the Department of Engineering, applicant shall additionally submit complete plans and specifications for the proposed work within the right-of-way, including a summary of the restoration estimate quantities.

(1) Right-of-way permits shall be in effect for a period of one (1) year or until closed by permittee. Permits requiring more than one (1) year must be renewed with the Department of Engineering. Each renewal shall be effective for a period of one (1) year.

(2) Right-of-way permits which include traffic restrictions on a major thoroughfare, or road closures of a minor street exceeding ten (10) days shall submit a traffic control plan to the Department of Engineering for approval.

b. No person or entity shall install new, or perform maintenance on existing, aerial facilities within the City right-of-way, for any purpose whatsoever, except incases of emergency, unless application is made to the Department of Engineering for permission therefore at least seven (7) days prior to planned work. All applications shall state the full name and address of the applicant, shall verify a valid license issued under Sec. 8-120, shall designate the place, extent, and purpose of such work, and shall be accompanied by a fee as hereinafter provided. If the installation or maintenance is being performed on an existing utility pole not owned by the Applicant, Applicant shall provide written consent from the owner of the utility pole granting permission for Applicant to perform proposed work. At the request of the Department of Engineering, applicant shall additionally submit complete plans and specifications for the proposed work within the right-of-way, including a summary of the restoration estimate quantities.

(1) Right-of-way permits shall be in effect for a period of one (1) year or until closed by permittee. Permits requiring more than one (1) year must be renewed with the Department of Engineering. Each renewal shall be effective for a period of one (1) year.

(2) Right-of-way permits which include traffic restrictions on a major thoroughfare, or road closures of a minor street exceeding ten (10) days shall submit a traffic control plan to the Department of Engineering for approval.

c. Each utility shall identify its presence an existing pole in the City right-of-way. Such identification must be placed on the utility pole at a location visible at ground level upon installation of new utilities or significant maintenance or repair of existing utilities.

bd. Upon proper application, payment of fee, and verification of license, the Department of Engineering shall issue a permit authorizing the applicant to work within the specified right-of-way for the specified purpose. Such permit shall designate the extent of such work and the length of time for which permission is granted. A copy of such permit shall be retained by the Department of Engineering as a part of its records. (Gen. Ord. No. 29, 2000, 12-14-00)

Sec. 8-122 Fees.

a. For each permit to engage in ~~working in~~ work within a right-of-way of this City as described in Sec. 8-121(a) above, in addition to making application to the Department of Engineering, the person or entity shall pay the City of Terre Haute a base fee in the amount of Three Hundred Dollars (\$300.00) and additional amounts as described in Sections 8-122(a)(1)-(2), all of which shall be referred to as the base fee.

(1) The fee for excavations or other disturbed surfaces shall be twenty-five cents (25¢) per square foot for every square foot of surface area disturbed.

(2) The fee for directional drilling, other types of underground boring, or aerial lines shall be fifteen cents (15¢) per linear foot of line.

b. For each permit to engage in working in work within a right-of-way of this City as described in Sec. 8-121(b) above, in addition to making application to the Department of Engineering, the person or entity shall pay the City of Terre Haute a base fee in the amount of One Hundred and Fifty Dollars (\$150.00) per one thousand (1,000) square feet maximum length, which shall be referred to as the base fee.

bc. Fees indicated below shall be in addition to the base fee:

(1) Any work which requires the closing of a street to vehicular traffic, flagging or lane restrictions, will have an additional charge of Fifteen Dollars (\$15.00) per lane, per day of roadway restriction. Partial lane restrictions shall be considered as a single lane restriction.

(2) Any work taking place on, over or under the road surface of a street designated as a major thoroughfare, or any street within the Downtown C-8 or C-9 zoning districts, will have an

additional charge equal to fifty percent (50%) of the sum of the base fee and the road closure fee. A list of the affected streets shall be on file in the Department of Engineering.

(3) This subsection does not apply to permits for only aerial line installation or maintenance. Any work taking place on, over or under a street will incur an additional charge based on the latest pavement rating inspection conducted per block. In the event that a project includes multiple blocks, the ratings of each block will be used to determine an average rating for the entire permit area. A list of the pavement rating shall be on file in the Department of Engineering. The additional fees associated with pavement ratings shall be based on a percentage of the base fee:

- (A) A street rated 1 – 1.99 will incur an additional fee of one hundred percent (100%) of the base fee.
- (B) A street rated 2 – 2.99 will incur an additional fee of fifty percent (50%) of the base fee.
- (C) A street rated 3 – 3.99 will incur an additional fee of twenty-five percent (25%) of the base fee.
- (D) A street rated 4 – 5 will not incur an additional fee.

(4) For permits exceeding a one year timeframe, the cost to renew a permit shall be One Hundred Twenty-Five Dollars (\$125.00).

ed. Two Hundred Twenty-Five Dollars (\$225.00) of each permit base fee collected shall be deposited into the Engineering Non-Reverting Fund and the remainder of fees collected shall be deposited into MVH Restricted.

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Sec. 8-123-1 Utility Maintenance and Line Pollution.

a. This section applies to the initial installation as authorized by the permit issued to the permittee and the service provider in regard to on-going maintenance of their facilities located in the City's right-of-way.

b. Cables and conduit installation, placement and storage are required to follow all federal, state, and local guidelines. The City for the purpose of this Article has adopted the guidelines and best practices of the National Electrical Safety Code as it may be amended from time to time.

c. Aerial cables are to be properly secured overhead and are not to hang loose or be placed at ground level. Cables that are abandoned or inactive are to be removed and cables are to be properly disposed of.

d. Cables transitioning from overhead to underground are to be secured within the proper utility pole riser guards. Cables shall not be permitted to hang loose.

e. Conduits rising out of the ground at a utility pole are to be fastened to the bottom of the utility pole and not dangling or swaying.

f. Conduit rising out of the ground that is not secured at a utility pole or in a structure is not to lay loose on the ground. Proper barriers must be placed around the conduit to prevent potential hazards. Permittee and/or service provider must schedule conduit to be placed in proper facilities within fourteen (14) days of installation.

g. Buried hand hole and vault structures are to be installed at grade. Structures are to be in working condition. Structures must include identification of the operator visible from the surface. Damaged structures are a safety hazard and can potentially cause harm. Damaged structures must be repaired or replaced immediately. Upon receiving notification, the permittee and/or service provider is to secure the structure and place proper barriers around the structure to prevent harm to the public. Permittee and/or service provider must schedule structure to be replaced or removed within fourteen (14) days from the date of notice.

h. Vertical structures including but not limited to pedestals, cable housing units and cabinets that are damaged and inoperable must be replaced or removed. Permittee and/or service provider is to secure the structure and place proper barriers around the structure to prevent harm to the public. Permittee and/or service provider must schedule structure to be replaced or removed within fourteen (14) days.

i. Damaged or hazardous utility poles and appurtenances must be repaired immediately.

j. Utility poles that are no longer in use must be removed from the right-of-way within fourteen (14) days of removal of utilities.

k. A line pollution violation is classified as non-compliance with any of the above requirements in this section or any damaged, abandoned, loose, improperly secured cables, conduit, and utility structures within the City right-of-way.

l. Line pollution violations will be issued to the permittee if the violation is associated with work included in their open permit. Violations identified where there are no open permits will be issued to the service provider.

Sec. 8-124 Penalty.

a. Unless otherwise provided, any person violating any provision of this Article shall be financially responsible for any necessary repairs and other costs associated with the proper restoration of the public right-of-way or facility. All licensees found to be in violation of the provisions herein shall also be subject to revocation or non-renewal by the Board of Public Works and Safety of the City

license to engage in such work. In addition, said person or entity shall be subject to the fines as indicated below: ~~violating any of the provisions herein shall be fined not more than Three Hundred Dollars (\$300.00) per day, per violation. Each day's continued violation shall constitute a separate offense. (Gen. Ord. No. 29, 2000, 12-14-00)~~

(1) Violations of the provisions found in Sec. 8-121 through 8-123 shall be fined not more than Three Hundred Dollars (\$300.00) per violation, per day.

(2) Violations of the provisions found in Sec. 8-123-1 shall be fined not more than Five Hundred Dollars (\$500.00) per violation, per day.

Each day's continued violation shall constitute a separate offense.

SECTION 2. The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after the date of its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and upon publication as required by law.

Introduced by: _____ Anthony Dinkel, Councilperson

Passed in open Council this _____ day of _____, 2024.

_____ Tammy Boland, President

ATTEST: _____ Michelle L. Edwards, City Clerk

Presented by me to the Mayor this _____ day of _____, 2024

at _____ o'clock.

_____ Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this _____ day of _____, 2024.

_____ Brandon C. Sakbun, Mayor

ATTEST: _____ Michelle L. Edwards, City Clerk