

FEB 16 2024

## GENERAL ORDINANCE NO. 1, 2024

CITY CLERK

AN ORDINANCE AMENDING THE *TERRE HAUTE CITY CODE*, CHAPTER 8, ARTICLE 5, WORK WITHIN THE PUBLIC RIGHT-OF-WAY.

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, §§ 8-120 – 8-124 are hereby amended by inserting the underlined text and removing the stricken text as follows:

**ARTICLE 5. WORK WITHIN THE PUBLIC RIGHT-OF-WAY.**

- Sec. 8-120 Licensing Requirements.
- Sec. 8-121 Permit for ~~Excavations~~Work within the Right-of-Way.
- Sec. 8-122 Fees.
- Sec. 8-123 Public Safety, Workmanship, and Restoration.
- Sec. 8-124 Penalty.
- Sec. 8-125 through Sec. 8-139 Reserved for Future Use.

**ARTICLE 5. WORK WITHIN THE PUBLIC-RIGHT-OF-WAY.**

**Sec. 8-120 Licensing Requirements.**

Each person or entity to perform work within a City right-of-way must obtain a license or registration in accordance with Chapter 4, Article 10, and must meet the following additional requirements:

a. Minimum insurance amounts shall be One Million Dollars (\$1,000,000.00) for combined bodily injury and property damage, One Million Dollars (\$1,000,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons, and One Hundred Thousand Dollars (\$100,000.00) for property damage.

b. Minimum bond amount shall be Twenty-five Thousand Dollars (\$25,000.00). Permits exceeding one thousand (1,000) square feet of disturbed area may require additional bonding amounts at the request of the Terre Haute Department of Engineering. Bonding amounts will be calculated on a case-by-case basis as determined by the cost of restoration of right-of-way. (Gen. Ord. No. 15, 2006, 12-14-06)

**Sec. 8-121 Permit for ~~Excavations~~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 ~~City Engineer~~ Department of Engineering for permission therefore at

least 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 ~~City Engineer~~ 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. Upon proper application, payment of fee, and verification of license, the ~~City Engineer~~ 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 ~~City Engineer~~ Department of Engineering as a part of his records. (Gen. Ord. No. 29, 2000, 12-14-00)

#### **Sec. 8-122 Fees.**

a. For each permit to engage in working in a right-of-way of this City, in addition to making application ~~in writing~~ to the ~~City Engineer~~ Department of Engineering, the person or entity shall pay the ~~City Controller of Terre Haute~~ City Controller of Terre Haute a base fee in the amount of ~~Twenty Five Dollars (\$25.00)~~ Three Hundred Dollars (\$300.00) and an additional ~~amount equal to 25¢ per square foot for every square foot of surface area excavated in excess of one hundred (100) square feet per cut,~~ amount equal to 25¢ per square foot for every square foot of surface area excavated in excess of one hundred (100) square feet per cut, all of which fee shall be referred to as the base fee amounts as described in Sections 8-122(a)(1)-(2), all of which shall be referred to as the base fee. ~~In addition, the following fees will be added:~~

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

(2) The fee for directional drilling or other types of underground boring shall be 15¢ per linear foot of bored line.

b. 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 ~~Ten Dollars (\$10.00)~~ Fifteen Dollars (\$15.00) per lane, per day of road closure 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 Business District~~ 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 ~~Office of the City Engineer~~ Department of Engineering.

(3) 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: that has been reconstructed or resurfaced within the last three (3) years 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 Office of the City Engineer.

(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)

~~b.c. Ten Dollars (\$10.00)~~ 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. ~~into MVH Funds and the remainder of fees collected shall be deposited into the Engineering Non-Reverting Fund.~~ (Gen. Ord. No. 29, 2000, 12-14-00)

#### **Sec. 8-123 Public Safety, Workmanship, and Restoration.**

a. The person or entity to whom a permit has been issued shall erect and maintain, at its expense, all necessary traffic control guards and danger signals; shall furnish all necessary traffic control devices watchmen to protect the public and the work during its progress; shall assume all liability, and indemnify and hold harmless the City, for accident or damage to person or property that may occur in the course of or by reason of the work.

b. No excavation or work shall be performed under the issued right-of-way permit until utility locates have been provided by all utilities known to be in the vicinity of work.

c. All excavations, holes, or other works remaining at the end of the work day shall be backfilled, barricaded or sufficiently covered to prevent damage or injury.

d. Work within the City right-of-way shall be limited to the hours of 8:00 am to 6:00 pm. Exceptions to these work hours will be permitted in the event of an emergency or approval from the Department of Engineering on the right-of-way permit.

be. All work performed shall be in accordance with the current standards and specifications of the City of Terre Haute. A copy of these standards and specifications shall be on file in the ~~Office of the City Engineer~~Department of Engineering.

f. For work disturbing significant portions of a street with a pavement rating of 1 – 3, pavement repair may include partial or total resurfacing of the street in the area of work on a case-by-case basis. The Department of Engineering shall indicate the extent of resurfacing at the time that the permit is issued unless permittee deviates from submitted plan.

eg. Upon completion of work, the permittee shall remove from the right-of-way all unused material, refuse and dirt placed in the vicinity of the work. (Gen. Ord. No. 29, 2000, 12-14-00)

h. Any disturbed areas, such as, but not limited to handicap ramps, sidewalks, street crossing, etc. must be restored to meet or exceed the current requirements of the Americans with Disabilities Act, and any other City, State, or Federal standards.

i. Disturbed areas outside of the roadway shall be restored within seven (7) days of completion of work.

j. Permittee must schedule and pass with the Department of Engineering an inspection of subgrade prior to the placement of patch material, and a final inspection in order to close the right-of-way permit. Permittee must remedy any defect noted in subgrade or final inspections. Scheduling of inspections is the responsibility of the Permittee.

k. Permittee shall provide a Two (2) year warranty to the City of Terre Haute for all work performed within the right-of-way of the City of Terre Haute. The warranty period shall begin at the closing day of the right-of-way permit.

#### **Sec. 8-124 Penalty.**

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 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)

Sec. 8-125 through Sec. 8-139 Reserved for Future Use.

**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: Todd Nation Todd Nation, Councilperson

Passed in open Council this 7 day of March, 2024.

Tammy Boland Tammy Boland, President

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 7 day of March, 2024  
at 8:36 p.m. o'clock.

Michelle L. Edwards Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this 7 day of March, 2024.

Brandon C. Sakbun Brandon C. Sakbun, Mayor

ATTEST: Michelle L. Edwards Michelle L. Edwards, City Clerk