



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-35

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January 6, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Subsection 14.08.010.H, Sections 14.08.020, 14.08.030, 14.08.050, and 14.08.170; and by adding Article IV to Chapter 14.08, all relating to Excavations, Street Improvements and Temporary Occupation of Rights-of-Way, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION:

Pursuant to your request on December 16, 2014, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By


LINDA T. VU
Deputy City Attorney

LTV:bg A14-02277
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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING SUBSECTION 14.08.010.H, SECTIONS 14.08.020, 14.08.030, 14.08.050, AND 14.08.170; AND BY ADDING ARTICLE IV TO CHAPTER 14.08; ALL RELATING TO EXCAVATIONS, STREET IMPROVEMENTS AND TEMPORARY OCCUPATION OF RIGHTS-OF-WAY

The City Council of the City of Long Beach ordains as follows:

Section 1. Subsection 14.08.010.H. of the Long Beach Municipal Code is amended to read as follows:

H. "Right-of-way" means any easement or land owned by the City and used or designated for use as a street, parkway, alley, utility corridor, walkway, promenade, or bike path, and the surfaces thereof, and includes any right-of-way to be dedicated in the future.

Section 2. Section 14.08.020 of the Long Beach Municipal Code is amended to read as follows:

14.08.020 Public works permit - Required.

A. No person shall perform any of the following activities without first obtaining a permit from the City Engineer authorizing such person to make such excavation, improvement, or temporary occupancy:

1. Make any excavation or improvements in, on, or under the surface of any right-of-way.

1 2. Use or occupy any right-of-way with a temporary
2 occupancy consisting of any structure, container, materials, equipment,
3 vehicles, or construction signs related to work on private property.

4 3. Make any excavation or improvements in, on, or under
5 the surface of private property adjacent to any right-of-way, where lateral
6 support to such right-of-way or improvements or property within such right-
7 of-way is affected by such excavation. Such excavation shall be subject to
8 the additional requirements specified in Article IV of this Chapter.

9 B. This Section shall not be applicable to excavations performed
10 pursuant to contracts awarded for such work by the Board of Harbor
11 Commissioners, or any activity for which a permit has been granted
12 pursuant to Chapter 5.60 of this Code.

13
14 Section 3. Section 14.08.030 of the Long Beach Municipal Code is
15 amended to read as follows:

16 14.08.030 Public works permit - Application.

17 A. The application for a permit under this Chapter shall be
18 completed and filed with the City Engineer on the City's application form.
19 Such permit application shall contain the name and street address of the
20 applicant and shall describe in detail the excavation, improvement, or
21 temporary occupancy to be made and the purpose of the excavation,
22 improvement or temporary occupancy.

23 B. The application for excavation or improvements shall include
24 seven (7) copies of a construction plan, twenty-four inch by thirty-six inch
25 (24" x 36") size showing the proposed location of the excavation or
26 improvements and the dimensions thereof, together with such other details
27 as the City Engineer may require on such plan. The plan shall be drawn to
28 a scale of not more than twenty feet to the inch (20' = 1") and all copies

1 thereof shall be to this scale. In addition, the application shall include
2 evidence that the applicant is either:

3 1. Under contract with the City for the excavation or
4 improvement; or

5 2. Authorized by law or a valid franchise to use the right-
6 of-way for which an excavation or improvement is being requested; or

7 3. Authorized by a pipeline permit issued under Chapter
8 15.44 of this Code to use the right-of-way for which an excavation or
9 improvement is being requested; or

10 4. Required to construct the excavation or improvement in
11 conjunction with a building permit issued under Chapter 18.12 of this Code
12 or a conditional use permit issued under Chapter 21.25 of this Code.

13 5. All construction plans submitted with an application for
14 an excavation permit relating to any hazardous liquid facilities shall be
15 signed by a California registered civil and/or mechanical engineer and shall
16 be accompanied by a certification, signed by the engineer, that all facilities
17 are in compliance with either the Federal Hazardous Liquid Pipeline Safety
18 Act of 1979 and its amendments, the California Pipeline Safety Act of 1981
19 and its amendments, or the City of Long Beach hazardous liquid pipeline
20 ordinance and its amendments, whichever one applies.

21 6. The applicant shall provide any additional information
22 which the City Engineer may deem necessary.

23 7. The application and permit shall be signed by the
24 applicant or the authorized agent of the applicant. Any person signing the
25 application and permit as an agent shall furnish written authorization signed
26 by the applicant designating the person as an authorized agent for such
27 purpose.

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1 Section 4. Section 14.08.050 of the Long Beach Municipal Code is
2 amended to read as follows:

3 14.08.050 Public works permit - Deposit or bond.

4 A. Unless the City Engineer has authorized the permittee to
5 perform the resurfacing or repair of the surface of any highway, public street
6 or alley which may be removed in part or damaged by excavation, fill or
7 temporary occupancy pursuant to a permit issued under this Chapter, the
8 permittee shall deposit with the City the estimated cost of resurfacing or
9 repairing the surface of the highway, public street or alley which may be
10 damaged or destroyed.

11 B. To ensure compliance with conditions established in the
12 permit, the City Engineer may require that the permittee furnish a surety
13 bond, cash deposit, or letter of credit. All bonds shall comply with
14 regulations issued by the City pursuant to Section 2.84.040 and shall be in
15 an amount equal to twice the estimated cost of performing the work
16 provided, however, that the minimum amount of such bond shall not be less
17 than one thousand dollars (\$1,000.00), and the minimum duration of the
18 bond shall not be less than one (1) year. The condition of such bond shall
19 be that the permittee will perform the work authorized by any permit issued
20 pursuant to this Code in a good and workmanlike manner and to the
21 satisfaction of the City Engineer.

22
23 Section 5. Section 14.08.170 of the Long Beach Municipal Code is
24 amended to read as follows:

25 14.08.170 Subsurface installations - Depths.

26 A. No person shall install any conduit, duct, shoring structure or
27 tunnel in any right-of-way at a distance of less than two and one-half feet
28 (2½') below established grade of the gutter of a right-of-way, or install any

1 shoring structure, main pipe or service pipe in any right-of-way at a distance
2 of less than three feet (3') below established grade of the gutter of the right-
3 of-way, or install any hazardous liquid main pipe or service pipe in any right-
4 of-way at a depth less than that required by applicable federal and State
5 regulations, except manholes, culverts, and catch basins, provided that
6 where, by reason of the construction of any tunnel, storm drain, structure,
7 pipe, conduit, or other subsurface structures, it is not possible to make such
8 installation at such distances below the established grade of the gutter of
9 the right-of-way, then the City Engineer may, at his or her discretion, upon
10 satisfactory showing of necessity or the public benefit, grant a special
11 permit for the installation at a distance of less than two and one-half feet
12 (2½') or three feet (3') below the established grade of the gutter of the right-
13 of-way or the surface of such other public place. A shoring structure shall
14 include, but is not limited to, tieback rods and supporting structures, over-
15 excavation on right-of-way, Caisson/Solider piles, and Raker/Brace system.

16 B. A subsurface shoring system that requires tieback rods
17 pursuant to a permit issued under this Chapter shall be detensioned and
18 removed when the shoring structure is no longer required due to the
19 construction of a permanent retaining structure to maintain the stability of
20 the embankments. The City may issue an administrative citation and
21 impose administrative penalties for violation of and failure to satisfy these
22 requirements in accordance with Chapter 9.65 of this Code.

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1 Section 6. Article IV is added to the Long Beach Municipal Code to read
2 as follows:

3 ARTICLE IV

4 EXCAVATIONS ADJACENT TO RIGHTS-OF-WAY

5
6 14.08.330 Public works permit - Additional terms and conditions.

7 Whenever a permit is required under Section 14.08.020.A.3. to excavate,
8 occupy, or use any space below any public sidewalk, public street, or other right-
9 of-way adjacent to private property for the purpose of facilitating the construction
10 of a structure to be erected on such private property, a permit issued under this
11 Chapter shall be subject to the following additional terms and conditions:

12 A. Permittee shall comply with any and all other requirements set
13 forth in this Chapter.

14 B. Permittee shall retain a professional civil engineer registered
15 in the State of California and legally qualified to locate property lines and
16 reference structures to such property line to prepare a plan and profile
17 drawing on twenty-four inch by thirty-six inch (24" x 36") sheet showing all
18 installations, substructures, utilities, water works, drainage facilities and
19 appurtenances between the property line and the centerline of the street or
20 to such further line as may be identified by the City Engineer. The street
21 profiles shall be shown using elevations in reference to the official City
22 datum plane. The location of any substructure or underground utility
23 between the curb and the property line shall be verified by spot excavation
24 prior to completion of plans. Any other substructure which may be affected
25 by the proposed excavation or construction shall also be verified by spot
26 excavation.

27 C. Permittee shall comply with all standard procedures
28 established by the City Engineer in connection with uses on rights-of-way

1 adjacent to private property where a private structure will be constructed
2 with specific reference to the following uses:

3 1. Removal of a portion of the right-of-way adjacent to
4 private property during a portion of the construction period; or

5 2. Constructing steel, concrete, or steel and concrete
6 structures in rights-of-way for the purpose of providing lateral support for
7 the right-of-way during the construction period and allowing these structures
8 to remain in the right-of-way after completion of the building.

9
10 14.08.340 Public works permit - Bond required.

11 In addition to the requirements set forth under Section 14.08.050, for
12 excavations adjacent to the right-of-way, Permittee shall furnish a bond in
13 an amount of one hundred and twenty-five percent (125%) of the total
14 estimated cost of restoring the right-of-way to its original condition in the
15 event of a failure of the lateral supports in the excavation site, as
16 determined by the City Engineer. The bond may be a cash deposit, security
17 equivalent to cash, or surety bond, provided in accordance with regulations
18 issued by the City pursuant to Section 2.84.040.

19
20 Section 7. The City Clerk shall certify to the passage of this ordinance by
21 the City Council and cause it to be posted in three (3) conspicuous places in the City of
22 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
23 Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

REDLINE

14.08.010 Definitions.

H. "Right-of-way" means any easement or land owned by the City and used or designated for use as a street, parkway, alley, utility corridor, walkway, promenade, or bike path, and the surfaces thereof, and includes any right-of-way to be dedicated in the future.

14.08.020 Public works permit—Required.

A. No person shall perform any of the following activities without first obtaining a permit from the City Engineer authorizing such person to make such excavation, improvement, or temporary occupancy:

1. mMake any excavation or improvements in, on, or under the surface of any right-of-way.

~~2. and no person shall u~~Use or occupy the any right-of-way with a temporary occupancy consisting of any structure, container, materials, equipment, vehicles, or construction signs related to work on private property, ~~without first obtaining a permit from the City Engineer authorizing such person to make such excavation, improvement, or temporary occupancy.~~

3. Make any excavation or improvements in, on, or under the surface of private property adjacent to any right-of-way, where lateral support to such right-of-way or improvements or property within such right-of-way is affected by such excavation. Such excavation shall be subject to the additional requirements specified in Article IV of this Chapter.

B. This Section shall not be applicable to excavations performed pursuant to contracts awarded for such work by the Board of Harbor Commissioners, or any activity for which a permit has been granted pursuant to Chapter 5.60 of this Code.

1 14.08.030 Public works permit—Application.

2 A. ~~A person desiring to make an excavation, improvement, or to~~
3 ~~occupy temporarily a right-of-way~~The application for a permit under this Chapter shall
4 ~~be completed and filed an application~~ with the City Engineer on the City's application
5 form, ~~which~~ Such permit application shall contain the name and street address of the
6 applicant and shall describe in detail the excavation, improvement, or temporary
7 occupancy to be made and the purpose of the excavation, improvement or temporary
8 occupancy.

9 B. The application for excavation or improvements shall include seven
10 (7) copies of a construction plan, twenty-four inch by thirty-six inch (24" x 36") size
11 showing the proposed location of the excavation or improvements and the dimensions
12 thereof, together with such other details as the City Engineer may require on such plan.
13 The plan shall be drawn to a scale of not more than ~~forty~~twenty feet to the inch (~~420'~~ =
14 1") and all copies thereof shall be to this scale. In addition, the application shall include
15 evidence that the applicant is either:

16 1. —Under contract with the City for the excavation or
17 improvement; or

18 2. —Authorized by law or a valid franchise to use the right-of-
19 way for which an excavation or improvement is being requested; or

20 3. —Authorized by a pipeline permit issued under Chapter
21 15.44 of this Code to use the right-of-way for which an excavation or improvement is
22 being requested; or

23 4. —Required to construct the excavation or improvement in
24 conjunction with a building permit issued under Chapter 18.12 of this Code or a
25 conditional use permit issued under Chapter 21.25 of this Code.

26 5. —All construction plans submitted with an application for an
27 excavation permit relating to any hazardous liquid facilities shall be signed by a
28 California registered civil and/or mechanical engineer and shall be accompanied by a

1 certification, signed by the engineer, that all facilities are in compliance with either the
2 Federal Hazardous Liquid Pipeline Safety Act of 1979 and its amendments, the
3 California Pipeline Safety Act of 1981 and its amendments, or the City of Long Beach
4 hazardous liquid pipeline ordinance and its amendments, whichever one applies.

5 6.—___The applicant shall provide any additional information which
6 the City Engineer may deem necessary.

7 7.—___The application and permit shall be signed by the applicant
8 or the authorized agent of the applicant. Any person signing the application and permit
9 as an agent shall furnish written authorization signed by the applicant designating the
10 person as an authorized agent for such purpose.

11

12 14.08.050 Public works permit—Deposit or bond.

13 A.—___Unless the City Engineer has authorized the permittee to perform
14 the resurfacing or repair of the surface of any highway, public street or alley which may
15 be removed in part or damaged by excavation, fill or temporary occupancy pursuant to
16 a permit issued under this Chapter, the permittee shall deposit with the City the
17 estimated cost of resurfacing or repairing the surface of the highway, public street or
18 alley which may be damaged or destroyed.

19 B.—___To ensure compliance with conditions established in the permit, the
20 City Engineer may require that the permittee furnish a surety bond, cash deposit, or
21 letter of credit. All bonds shall comply with regulations issued by the City pursuant to
22 Section 2.84.040 and shall be in an amount equal to twice the estimated cost of
23 performing the work provided, however, that the minimum amount of such bond shall
24 not be less than one thousand dollars (\$1,000.00), and the minimum duration of the
25 bond shall not be less than one (1) year. The condition of such bond shall be that the
26 permittee will perform the work authorized by any permit issued pursuant to this Code
27 in a good and workmanlike manner and to the satisfaction of the City Engineer.

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14.08.170 Subsurface installations—Depths.

A. No person shall install any conduit, duct, shoring structure or tunnel in any right-of-way at a distance of less than two and one-half feet (2½') below established grade of the gutter of a ~~public right-of-way~~, or install any shoring structure, main pipe or service pipe in any ~~public right-of-way~~ at a distance of less than three feet (3') below established grade of the gutter of the ~~public right-of-way~~, or install any hazardous liquid main pipe or service pipe in any right-of-way at a depth less than that required by applicable federal and State regulations, except manholes, culverts, and catch basins, provided that where, by reason of the construction of any tunnel, storm drain, structure, pipe, conduit, or other subsurface structures, it is not possible to make such installation at such distances below the established grade of the gutter of the right-of-way, then the City Engineer may, at his or her discretion, upon satisfactory showing of necessity or the public benefit, grant a special permit for the installation at a distance of less than two and one-half feet (2½') or three feet (3') below the established grade of the gutter of the right-of-way or the surface of such other public place. A shoring structure shall include, but is not limited to, tieback rods and supporting structures, over-excavation on right-of-way, Caisson/Solider piles, and Raker/Brace system.

B. A subsurface shoring system that requires tieback rods pursuant to a permit issued under this Chapter shall be detensioned and removed when the shoring structure is no longer required due to the construction of a permanent retaining structure to maintain the stability of the embankments. The City may issue an administrative citation and impose administrative penalties for violation of and failure to satisfy these requirements in accordance with Chapter 9.65 of this Code.

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2. Constructing steel, concrete, or steel and concrete structures in rights-of-way for the purpose of providing lateral support for the right-of-way during the construction period and allowing these structures to remain in the right-of-way after completion of the building.

14.08.340 Public works permit - Bond required.

In addition to the requirements set forth under Section 14.08.050, for excavations adjacent to the right-of-way, Permittee shall furnish a bond in an amount of one hundred and twenty-five percent (125%) of the total estimated cost of restoring the right-of-way to its original condition in the event of a failure of the lateral supports in the excavation site, as determined by the City Engineer. The bond may be a cash deposit, security equivalent to cash, or surety bond provided in accordance with regulations issued by the City pursuant to Section 2.84.040.