

ORDINANCE NO. 2026-31

AN ORDINANCE OF THE CITY OF SAGINAW AMENDING CHAPTER 10, "BUILDINGS AND BUILDING REGULATIONS," OF THE SAGINAW CITY CODE BY ADDING A NEW ARTICLE 12, "CONSTRUCTION WITHIN PUBLIC RIGHTS-OF-WAY," GOVERNING THE USE AND OCCUPANCY OF PUBLIC RIGHTS-OF-WAY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Saginaw, Texas (the "City") is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council desires to amend the Saginaw City Code by adding new regulations to oversee the operation, maintenance, occupancy and development of the City's public rights-of-way; and

WHEREAS, the City Council also desires to promote the public health, safety, and welfare by protecting the physical integrity of the City's streets and highways.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS, THAT:

SECTION 1.

Chapter 10, "Buildings and Building Regulations," of the Saginaw City Code is hereby amended by adding a new Article 12, "Construction Within Public Rights-of-Way," to read as follows:

"ARTICLE XII. – CONSTRUCTION WITHIN PUBLIC RIGHTS-OF-WAY

Sec. 10.361. - Purpose; authority and scope.

- (a) Purpose. The purpose of this article is to:
 - (1) Assist in the management of facilities placed in, on or over the public rights-of-way in order to minimize the congestion, inconvenience, visual impact and other adverse effects, and the costs to the citizens resulting from the placement of facilities within the public rights-of-way;
 - (2) Govern the use and occupancy of the public rights-of-way;
 - (3) Assist the city in its efforts to protect the public health, safety and welfare;

- (4) Conserve the limited physical capacity of the public rights-of-way held in public trust by the city;
 - (5) Preserve the physical integrity of the streets and highways;
 - (6) Control the orderly flow of vehicles and pedestrians;
 - (7) Keep track of the different entities using the rights-of-way to prevent interference between them;
 - (8) Assist in scheduling common trenching and street cuts; and
 - (9) Protect the safety, security, appearance, and condition of the public rights-of-way.
- (b) *Authority and scope.* No person shall commence or continue with the construction of facilities within the public rights-of-way except as provided by the ordinances and directives of the city. All construction activity in the public rights-of-way will be in accordance with this article.

Sec. 10.362. - Unauthorized use of public rights-of-way.

- (a) The city may institute all appropriate legal action to prohibit any person from knowingly using the public rights-of-way unless the person has complied with the terms of this article.
- (b) A person commits a class C misdemeanor offense who commences or continues with the construction of facilities within the public rights-of-way, except as permitted by this article or by state law. Each day the person continues with the construction of facilities or engages in maintenance that requires excavation in or blocks the public rights-of-way in violation of this article constitutes a separate offense. Any violation of this article shall be punished by a fine of not more than \$500.00 per violation per day.

Sec. 10.363. - Conflict with franchise.

To the extent the provisions of this article conflict with the specific provisions of a franchise granted by the city and accepted by the franchisee, the provisions of the franchise shall prevail during the term of the franchise. To the extent that the provisions can be reconciled, both the franchise and this article shall be given effect.

Sec. 10.364. - Definition of terms.

For the purposes of this article, the following terms, phrases, and words shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

Certificated telecommunications provider means the same as in V.T.C.A., Local Government Code § 283.002(2), as amended. Certificated telecommunications provider shall include any entity that has been granted a certificate from the Texas Public Utility Commission under V.T.C.A., Utilities Code ch. 54 authorizing that entity to provide local exchange telephone service.

Construction means the construction, installation, expansion, reconstruction, removal, excavation, maintenance, repair or other work in connection with facilities within the public rights-of-way.

Contractor means a person registered with the city to construct facilities on behalf of a user within the public rights-of-way. This definition includes both contractors and subcontractors.

Facilities means any and all of the wires, cables, fibers, duct spaces, manholes, poles, conduits, pipes, underground and overhead passageways and other equipment, structures, plant, and appurtenances and all associated physical equipment placed in, on or under the public rights-of-way.

Franchise means the initial authorization, or renewal thereof, issued by the city or other franchising authority having jurisdiction over the public rights-of-way, whether such authorization is designated as a franchise, ordinance, permit, license, resolution, contract, certificate, or agreement.

Permittee means a person who holds an issued permit from the city to work in the public rights-of-way.

Person means an individual, partnership, association, joint stock company, trust, corporation, governmental entity or any other legal entity.

Public rights-of-way means public right-of-way as that term is defined in V.T.C.A., Local Government Code § 283.002(6), as amended to include the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the city has an interest. The term includes Texas Department of Transportation right-of-way.

City means the City of Saginaw, Texas, or an authorized agent of the city.

User means a person who owns and maintains facilities within the public rights-of-way. A user includes a franchise holder, certificated telecommunications provider, or property owner and their employees.

Sec. 10.365. - Registration; construction permits.

(a) *Registration.*

- (1) In order to protect the public health, safety, and welfare, all users and contractors within the public rights-of-way shall annually register with the city. This includes contractors working for the city on city projects. For entities with a current franchise, that franchise shall be submitted with the registration form. When any

information provided with the registration changes, the user or contractor shall inform the city of the change before the change occurs. If the name of the company or responsible person changes, a new registration form must be submitted for approval.

- (2) Said registration shall be upon forms supplied by the city and shall become null and void on December 31 of each year. An appropriate fee for registration shall be assessed in accordance with the provisions of appendix A of the Saginaw City Code.
- (3) All fees paid for contractor registration shall be non-refundable, regardless of whether the registration is approved, denied, withdrawn, canceled, suspended, or otherwise not completed.

Exceptions:

- (a) A registration fee shall not be charged to a residential property owner in connection with his legal residence. For this section, legal residence shall be defined as property for which a property owner shows proof of a homestead exemption.
- (b) For entities with a franchise, no registration fee shall be charged and the registration shall be valid for the term of the franchise.
- (4) The city shall issue a registration to the applicant if the city, after review of the application, determines that the applicant:
 - a. Has complied with all requirements for issuance of the registration; and
 - b. Has not made a false or inaccurate statement as to a material matter on the application for registration; and
 - c. Has not failed to pay any fees owed the city as a result of work performed in the public rights-of-way.
- (5) Any registration regulated by this article may be placed on hold or suspended by the city thereby preventing any additional permits being issued if it is determined by the city that corrective action is needed. If any contractor registration is suspended, the procedures outlined in Chapter 10, article XVI shall apply. Any registration placed on hold more than three times in a calendar year may be suspended.
- (6) The city shall revoke a registration if the city determines that the registration holder has:
 - a. Given false or inaccurate information on the application for registration or in a hearing concerning the registration; or
 - b. Violated the provisions of this article; or

- c. If the registration holder has a franchise with the city, violated the terms of the franchise.
 - (7) If the city denies or revokes a right-of-way registration, the city shall give notice by personal service or by certified mail, return receipt requested, to the applicant or registration holder. The applicant or registration holder may appeal the decision to deny or revoke by filing written notice with the city, within five days after receipt of notice. The city shall mail or cause to be personally delivered, written notice of the time and place of a hearing on the appeal to the person appealing. The notice shall be mailed to the address specified in the notice of appeal form. The city shall conduct a hearing and shall make a decision on the basis of a preponderance of the evidence presented at the hearing. The decision of the city shall be final.
- (b) *Construction permits.*
- (1) No person shall perform any construction of facilities in public rights-of-way without first obtaining a construction permit from the city. A completed application for a permit with all required information attached shall be submitted on forms and website resources supplied by the city. Permits will be limited to street sections, block sections, or addresses, at the discretion of the city. The submittal of a completed permit application with an attached approved permit from the Texas Department of Transportation shall serve as the construction permit for work within Texas Department of Transportation rights-of-way, once submitted, approved, and issued. (No permit fees will be collected, only at registration).

Exceptions:

- a. Emergency responses related to existing facilities. When necessary to prevent service interruptions or the imminent threat of harm to persons or property, work may be undertaken without first obtaining a permit; however, immediately after cessation of the emergency a permit must be obtained for the work performed, or being performed, in the public rights-of-way and an updated map of any relocated facilities shall be submitted. Permits shall be issued only to persons who have a valid registration or franchise with the city. Permits shall be issued only to persons who will be doing the work within the public rights-of-way.
 - b. Work issued as a part of a development permit, CIP project, or a building permit.
 - c. Maintenance of equipment, such as exchange of equal parts, in the same location.
- (2) Permit submittals will be reviewed and comments sent back to the applicant within ten working days. If the permit submitted is incomplete, the application will be rejected as an "incomplete submittal" and the determination shall specify the documents or other information needed to complete the application and shall state that the application shall expire if the required documents or other information are

not submitted within 45 days after the date the application was submitted. Each subsequent re-submittal will be reviewed and comments sent to the applicant within ten working days.

- (3) An application for a permit for any proposed work shall be deemed to have expired 60 days after the date of submittal, unless such application has been pursued as provided above or a permit has been issued. The city is authorized to grant one or more extensions of time for additional periods not exceeding 60 days each. The extension shall be requested in writing and justifiable cause demonstrated. If work authorized by a permit has not commenced within 60 days from the date of permit issuance, the permit shall become void. The contractor shall be required to resubmit new permit application and obtain a new permit approval prior to commencing work.
- (4) Notwithstanding anything else in this section, no work may begin until a permit has been issued and an onsite pre-construction inspection between the permittee and the city inspector has been scheduled and approved.

Sec. 10.366. - Compliance with permit; time for completion.

(a) *Compliance with permit.*

- (1) All construction in the public rights-of-way shall be in accordance with the permit for the facilities. The city shall be provided access to the work and to such further information as may be reasonably required to ensure compliance with the permit.
- (2) A copy of the construction permit, and engineering plans if required, that have been reviewed and released for construction shall be maintained at the construction site and made available for inspection by the city at all times when construction is occurring.

(b) *Time for completion.*

All construction authorized by a permit must be completed in the time specified in the permit. For good and satisfactory reasons, any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this article. The city may extend the time for action by the permittee for a period not exceeding 60 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once. If work authorized by a permit has not commenced within 60 days from the date of permit issuance, the permit shall become void. The contractor shall be required to resubmit new permit application and obtain a new permit approval prior to commencing work.

Sec. 10.367. - Federal or state permits.

A copy of any permit or approval issued by federal or state authorities for work in federal or state rights-of-way located in the city shall be maintained at the construction site and made available for inspection by the city at all times when construction is occurring.

Sec. 10.368. - Notification of construction start.

An on-site pre-construction inspection meeting must be scheduled and attended by the contractor, and construction must be approved by the city, before any construction may begin. Before this meeting is scheduled, all non-city owned utilities must be marked. During this inspection, line locates will be scheduled for completion. All city utilities must be identified and marked, if needed, prior to the start of construction. In addition, during this on-site pre-construction inspection meeting the permittee shall provide the "One-Call" ticket number assigned in compliance with the Underground Facility Damage Prevention and Safety Act. The permittee shall also provide notification to property owners adjacent to the construction site by letter or door hangers at least 48 hours in advance of the start of construction. The notification shall include contact information. In the event the construction is an emergency response, notification of construction shall be made to the city as soon as practicable, but no later than the next business day.

Sec. 10.369. - Compliance with codes and laws.

Construction shall be in conformance with all city codes and applicable local, state, and federal laws.

Sec. 10.370. - Storm water and erosion control.

The permittee shall be responsible for storm water management and erosion control that complies with city, state, and federal guidelines. Requirements shall include, but not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and backed silt fencing in high erosion areas. Upon request, the permittee may be required to furnish documentation submitted to or received from the federal or state government. Erosion control facilities shall be in place prior to commencement of construction.

Sec. 10.371. - Notification of damage.

The permittee shall notify the city immediately of any damage to other utilities, whether owned by the city, another public entity, a franchisee or a private utility.

Sec. 10.372. - Working hours.

Except in emergency situations, all construction within public rights-of-way shall be performed during standard daylight hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. Saturday (collectively referred to as "standard working hours"). Notwithstanding the definition of standard working hours, all required inspections and the performance of any construction which requires monitoring by the city's inspection staff shall only

be performed between the hours of 7:00 a.m. and 4:00 p.m. Monday through Thursday, and 7:00 a.m. to 11:00 a.m. on Fridays ("regular inspection hours"), unless special hours have been approved. Construction not requiring inspections or monitoring by the city's inspection staff can be done at any time during standard working hours. Any construction performed under emergency conditions, or when construction must be concluded under artificial lighting, lighting shall be erected and directed so that it shall not shine upon any residence or create a visual traffic hazard.

Required inspections and monitoring of construction by the city's inspection staff outside of regular inspection hours but within standard working hours may be requested by the permittee. The approval of any request to perform construction requiring inspections or monitoring of construction by the city's inspection staff outside of regular inspection hours but within standard working hours shall only be granted if:

- (1) Contractor submits the request together with a detailed schedule of the construction proposed to be performed in writing to the city no later than 4:00 p.m. at least three days before the inspections/monitoring are requested to begin;
- (2) Overtime sheet has been submitted, approved and required overtime has been paid; and
- (3) City inspection staff are available to perform the inspections and monitoring requested.

Sec. 10.373. - Worksite regulations.

- (a) In performing the work covered by the construction permits, the permittee shall:
 - (1) Comply with trench safety requirements adopted by federal, state, and local law;
 - (2) Follow the appropriate national safety code, as applicable, regarding design and construction procedures;
 - (3) Compact the backfillings to a density of 95 percent standard proctor density, as determined by a testing laboratory so as to prevent settling when a trench lies under any city street, or within 18 inches of a city street, and otherwise, to a density which meets the North Central Texas Council of Government specifications, as adopted by the city;
 - (4) Install new facilities located within the right-of-way at a minimum depth of 24 inches, or at a minimum depth approved by the city, with the following minimum clearances, except where the city finds an alternate clearance can safely accommodate existing utilities:
 - a. All conduits that cross an existing sanitary sewer or water main shall have a two-foot minimum vertical clearance from any existing pipes;

- b. All conduits that cross an existing storm sewer shall have a two-foot minimum vertical clearance from the exterior face of the existing storm sewer;
 - c. All conduits that run parallel to an existing storm sewer, sanitary sewer or water main shall have a three-foot minimum horizontal clearance from the exterior face of the pipes or manholes and all electrical conduits shall run on the opposite side of the street from water lines;
 - d. All conduits crossing an existing traffic signal conduit shall have a two-foot clearance from any existing conduit;
- (5) Have the obligation to use trenchless technology. The city may waive the requirement of trenchless technology if the city determines that the field conditions warrant the waiver, based upon information provided to the city by the permittee;
 - (6) Ensure that the portion of the public rights-of-way in which repair work is conducted is, at all times and to the extent practicable, kept free of accumulating water;
 - (7) Promptly remove from the public rights-of-way all earth, gravel, stone or other material excavated from the area of such repair work, which is not needed for fill material at that location;
 - (8) Notify the city immediately of any damage to other facilities, either city or privately owned;
 - (9) Ensure that newly installed facilities will not interfere with other facilities, in particular gravity dependent facilities;
 - (10) Maintain a vertical clearance of at least four feet below the bottom of the proposed stream bed or drainage facilities, if applicable. The applicant shall contact the city to determine whether future improvements to the channel may impact the cable alignment; and
 - (11) Maintain a minimum of 20 feet vertical clearance above the top of pavement at any signalized intersection and shall not obstruct any traffic signal indication or detection device. No franchise device shall be attached to any traffic signal equipment.
- (b) In performing work on facilities within the public rights-of-way, a permittee shall not:
 - (1) Unreasonably interfere with the operation of other facilities or equipment situated within the public rights-of-way, whether owned or maintained by the city or other users;
 - (2) Use dynamite or other explosives during the excavation without the prior written approval of the city; or

- (3) Remove locate flags from a location while facilities are being constructed.
- (c) A permittee is responsible for the workmanship and any damages by a contractor or subcontractor. This provision is not intended to affect any legal relationship between a permittee and its contractors. A responsible representative of the permittee will be available to the city at all times during construction.
- (d) A permittee is responsible for:
 - (1) Physically verifying the location both horizontal and vertical of all affected facilities, or, if required by the city, hand digging or potholing, prior to any excavation or boring, with the exception of work involving only lane closures;
 - (2) Obtaining line locaters from all affected utilities prior to any excavation. Use of the Geographic Information System or the plans of record does not satisfy this requirement; and
 - (3) The contractor performing the work shall be responsible and liable for any damage caused by the contractor, its employees, agents, subcontractors, or equipment to public utilities, infrastructure or other facilities located within the public right-of-way. The presence, absence, or placement of utility markings or line locates shall not relieve the contractor of such responsibility.
- (e) The city must approve in advance the placement of all franchise utility poles, manholes and/or handholes. Franchise utility poles, handholes or manholes shall not be located in sidewalks or handicap ramps, unless approved by the city.
- (f) The city may stop work under the permit at any time upon finding that conditions at the worksite exist that pose an immediate risk of harm to persons and/or property.

Sec. 10.374. - Traffic, detours, barricades.

- (a) Except in emergency conditions, a person shall obtain prior approval of the city when a street or sidewalk cut is required, and comply with all requirements of the city for street cuts.
- (b) A permittee or person shall not cut or open more than one-half of the roadway at any time in order to maintain the flow of traffic at all times. However, in an emergency or with the permission of the city along with an approved traffic control plan, the total width of the roadway may be cut or opened provided barricades are placed at the first intersection each way from the cut and detour signs are erected.
- (c) Except in an emergency, all street closures or detours that will exceed 24 hours in duration shall require an approved traffic control plan and shall be posted by a sign at least two days prior to the closure or detour. If a cut or opening in a street is left open after 4:00 p.m., a barricade or temporary fencing must be placed on both sides of the cut and flares or red or amber lights shall be placed in front of each barricade. In the alternative, the permittee may cover the cut with steel plates.

- (d) In performing the work, a permittee shall furnish and install the barricades, flares, and lights as necessary, and in compliance with the Texas Manual on Uniform Traffic Control Devices and an approved traffic control plan. In the event there is a conflict between the provisions of this article and the provisions of the Texas Manual on Uniform Traffic Control Devices, the latter shall be controlling.
- (e) During the time the work is actually being conducted, the permittee shall provide a flagger or flaggers to alert the public to the work, when required by the Texas Manual on Uniform Traffic Control Devices or when required by the city.
- (f) Lane closures on arterial streets as shown on the city's thoroughfare plan will be limited to between the hours of 9:00 a.m. to 3:00 p.m. All traffic control devices shall be in place prior to the start of construction. All lane closures shall comply with the Texas Manual on Uniform Traffic Control Devices. Traffic control plans shall be submitted and approved by the traffic engineer. Alterations to these lane closure times shall be approved by the traffic engineer or designee.
- (g) Any work that may involve construction within the public rights-of-way adjoining a school within the city must be coordinated with the city so as to minimize traffic conflicts and street closures during school days. Lane closures within designated school zones shall be limited to 9:00 a.m. to 3:30 p.m. Alterations to these lane closure times shall be approved by the city or designee.

Sec. 10.375. - Information signs.

For projects permitted in lengths greater than 1,000 lineal feet, a minimum three feet by three feet informational sign with four-inch letters stating the identity and the telephone number of the permittee shall be placed at the location where construction is to occur prior to the beginning of the work in the public rights-of-way and shall continue to be posted at the location during the entire time of construction.

Sec. 10.376. - Restoration of public rights-of-way.

- (a) When a permittee completes construction, the permittee shall promptly restore the public rights-of-way to a condition at least as good as existed immediately prior to work commencing. The permittee shall return all flowlines and grades in the public rights-of-way to their original condition and shall complete restoration, which shall include, but not be limited to:
 - (1) Replacing or properly repairing the surface, base, irrigation system, and landscape treatment of any public rights-of-way that may be excavated or damaged by reason of the construction of the permittee's facilities;
 - (2) Replacing all ground cover with equal to the type of ground cover damaged during work, or better either by sodding or seeding, as directed by the city;
 - (3) Installing of all manholes and handholes, as required;

- (4) Backfilling all bore pits, potholes, trenches or any other holes, unless other safety requirements are approved by the City;
 - (5) Leveling of all trenches and backhoe lines;
 - (6) Restoring excavation site to city specifications;
 - (7) Removing all locate flags during the clean-up process;
 - (8) Televising sanitary sewer residential lines and storm water laterals after work completion to ensure no damage was caused; and
 - (9) Repairing and restoring any public or private water and sewer lines, and irrigation lines, or associated facilities, damaged, disturbed, or otherwise affected by the work to their original or better condition.
- (b) The permittee shall be responsible for any damage caused by its work in the public rights-of-way, whether to public or private property, and shall immediately repair or replace said property or compensate the owner for damage to said property. Until such repair, replacement or compensation has been made, the permittee's work shall not be deemed completed. Traffic signal damage must be repaired the same day by a qualified traffic signal contractor. The traffic signal must be placed back in full operation.
 - (c) The permittee shall complete restoration to the reasonable satisfaction of the city within 60 calendar days after completion of the work, unless otherwise extended by the city.
 - (d) Upon failure of a permittee to perform any such repair or replacement work, after five working days of receipt of a written notice given by the city to the permittee, the city may repair such portion of the public rights-of-way as may have been disturbed by the permittee. The permittee shall reimburse the city for the costs so incurred within 60 calendar days from the receipt of the city's invoice by the permittee.
 - (e) Should the city reasonably determine, within two years from the date of completion of the repair work by the permittee, that the surface, base, irrigation system, or landscape treatment requires additional restoration work to bring the work to a condition at least as good as existed immediately prior to the construction commencing, the permittee shall perform such additional restoration work.
 - (f) Notwithstanding the foregoing, if the city determines that the failure of the permittee to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts. The permittee shall promptly reimburse the city for all costs incurred by the city within 60 calendar days from the receipt of the city's invoice.
 - (g) If a permittee performs emergency construction in the public rights-of-way, the permittee shall comply with the requirements of this section for restoration of the public rights-of-way.

- (h) Although no work will be permitted on private property adjacent to public rights-of-way, these restoration provisions shall apply to any damages to the adjacent private property as a result of construction within the public rights-of-way.
- (i) If the permittee fails to diligently perform the work described in the permit, abandons the job, or for other reasons does not complete the work within a timely manner, the city, after giving notice to the permittee, shall have the authority to take such action as is necessary to restore the public rights-of-way to a good and safe condition for the benefit and convenience of the public. If the failure to complete the work causes a safety hazard, the city shall commence restoration and shall notify the permittee as promptly as possible after commencing work. Under these circumstances, the permittee shall be responsible for all costs incurred by the city in restoring the public rights-of-way and shall make no claim against the city for any excess costs or expenses or damage incurred by the permittee on account of the city's action.
- (j) If a permittee fails to perform necessary restoration in accordance with the requirements of this section, all work in progress, except that related to the required restoration, which has been permitted but not completed may be halted and the city may place a hold on any permits not approved until all restoration is complete.

Sec. 10.377. - Record drawings.

When requested, the permittee shall provide "record drawings" within 90 days of completion of construction. The "record drawings" shall be in a format used by the permittee in its ordinary course of business, but may exclude customer specific, proprietary or confidential information. If the release of the location of any utility, including water and sewer or of the "record drawings" submitted under this section would jeopardize public safety, the information shall be considered confidential. In addition, if "record drawings" submitted under this section include information expressly designated by the user as a trade secret or other confidential information protected from disclosure by state law, the city may not disclose the information to the public without the consent of the user, unless otherwise compelled by an opinion of the attorney general pursuant to the Texas Public Information Act, or by a court having jurisdiction of the matter pursuant to applicable law.

Sec. 10.378. - Emergency conditions.

If the city declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, a permittee shall remove or abate the permittee's facilities by the deadline provided in the city's request. Upon failure of a permittee to perform such removal or abatement after five working days of receipt of written request from the city, the city may perform such work. The permittee shall reimburse the city for all costs or liability incurred by the city within 60 calendar days from the date of the city invoice.

Sec. 10.379. - Conditions for occupancy of public rights-of-way.

- (a) In the exercise of governmental functions, as lawfully authorized by state and federal law, the city has first priority over all other users of the public rights-of-way. The city reserves the right to construct sewer, gas, water, drainage and other pipe lines, cables and conduits,

to do underground and overhead work and/or change aerial facilities, in, across, along, over or under a public street, alley, or public rights-of-way occupied by a user, and to change the curbs, sidewalks, or the grade of the streets in accordance with state and federal law. Other projects within the public rights-of-way, such as beautification facilities, will not have higher priority over other users.

- (b) The city shall assign the location in or over the public rights-of-way among known users of the public rights-of-way with due consideration to the public health and safety considerations of each type of user and to the extent the city can demonstrate that there is limited space available for additional users, may limit new users, as allowed under state or federal law.
- (c) If the city authorizes abutting landowners to occupy space under the surface of any public street, alley or public rights-of-way, the grant to an abutting landowner shall be subject to the rights of the authorized users of the public rights-of-way. If the city closes or abandons public rights-of-way that contains a portion of a user's facilities, the city shall close or abandon such public rights-of-way subject to the rights of the user.
- (d) Subject to applicable state law, whenever the city has determined that removal, relocation, change, or alteration of a user's facilities in the public rights-of-way is reasonably necessary for the widening or straightening of a street, or because the facilities otherwise interfere with the public use of the public rights-of-way, upon written notice by the city, the user shall, at its own expense, temporarily or permanently, remove, relocate, change or alter the position of the user's facilities that are in the public rights-of-way within 120 days, except in circumstances that require additional time as reasonably determined by the city based upon information provided by the user. Prior to relocation, the city shall provide a suitable location within the public rights-of-way or another property or place for relocation of the facilities sufficient to maintain service. For projects expected to take longer than 120 days to remove, relocate, change, or alter, the city will confer with the user and will determine a reasonable period of time for the removal, relocation, change or alteration. Should the removal, relocation, change or alteration be deemed by the user to impose a significant financial hardship, the user shall have the right to present alternative proposals to the city and the city shall give due consideration to any such alternative proposals. This section shall not be construed to prevent a permittee's recovery of the cost of removal, relocation, change or alteration from private third parties who initiate the request for removal, relocation, change or alteration. If the permittee fails to relocate facilities in the time allowed by the city under this section, the city may pursue legal action to compel action by the permittee and to recover from the permittee any liabilities or damages incurred by the city on account of such delay. Notwithstanding anything in this subsection (d), the city and the permittee may agree in writing to different time frames than those provided above if circumstances reasonably warrant such change. Such circumstances may include, but are not limited to, weather conditions, emergency conditions, accuracy and completeness of engineering plans or changes in design, relocation, coordination and other criteria which may delay projects.
- (e) A permittee may trim trees in or over the public rights-of-way for the safe and reliable operation, use and maintenance of its facilities. All tree trimming shall be performed in

accordance with standards promulgated by the city including the prohibition of tree topping. A permittee trimming trees within public rights-of-way shall be either certified or shall have initiated the process to obtain certification using the standards of Tree Line USA, a program sponsored by the National Arbor Day Foundation. The permittee shall make reasonable efforts to contact affected property owners prior to necessary tree trimming operations. Should the permittee, its contractor or agent fail to remove tree trimmings within 24 hours under routine circumstances, or within 24 hours after all service restoration activities have been completed under emergency conditions, the city may remove the trimmings or have them removed, and upon receipt of a bill from the city, the permittee shall reimburse the city for all costs incurred within 60 calendar day.

Sec. 10.380. - Insurance; indemnity.

(a) *Insurance requirements.*

- (1) A permittee shall obtain and maintain insurance in the amounts reasonably prescribed by the city with an insurance company licensed to do business in the State of Texas and acceptable to the city throughout the term of occupancy of public rights-of-way. At the time of registration, a permittee shall furnish the city with proof of insurance. The city reserves the right to review the insurance requirements and to reasonably adjust insurance and limits when the city determines that changes in statutory law, court decisions, or the claims history of the industry or the permittee require adjustment of the coverage. For purposes of this section, the city will accept certificates of self-insurance issued by the State of Texas or letters written by the permittee in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, for the city to accept such letters the permittee must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the city, based on financial information requested by and furnished to the city.
- (2) The permittee shall furnish to the city copies of certificates of insurance or proof of self-insurance evidencing the coverage required by section 10.380(b), below.
- (3) Insurance policies shall:
 - a. Name the city and its officers, employees, board members, and elected representatives as additional insureds for all applicable coverage.
 - b. Provide for 30 days' notice to the city for cancellation or non-renewal.
- (4) The permittee shall immediately advise the city attorney of actual or potential litigation that may develop and affect an existing carrier's obligation to defend and indemnify.
- (5) This section creates no right of recovery of an insurer against the city. The required insurance policies shall protect the permittee and the city. The insurance shall be primary coverage for losses covered by the policies.

- (6) The policy "other insurance" shall not apply to the city if the city is an insured under the policy.
 - (7) The permittee shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by the permittee must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy.
- (b) *Minimum amounts of insurance.*
- (1) *Comprehensive general liability.*
 - Property damage \$1,000,000.00
 - Personal injury \$1,000,000.00
 - Products—Comp/OP AGG \$2,000,000.00
 - Aggregate \$2,000,000.00
 - (2) *Comprehensive automobile liability.*
 - Personal injury, each person \$500,000.00
 - Property damage, each occurrence \$500,000.00
 - (3) *Worker's compensation and employer's liability.*
 - Each accident \$1,000,000.00
 - Disease—Policy limit \$1,000,000.00
 - Disease—Each employee \$1,000,000.00
 - (4) *Umbrella liability insurance.*
 - Combined single limit \$2,000,000.00
- (c) *Indemnity.*
- (1) Except as to certificated telecommunications providers, each permittee placing facilities in the public rights-of-way shall agree to promptly defend, indemnify and hold the city harmless from and against any and all claims, demands, suits, causes of action, and judgments for: (1) damage to or loss of property of any person (including, but not limited to the user, a permittee, its agents, officers, employees, contractors and subcontractors; the city's agents, officers, and employees; and third parties); and/or (2) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers,

contractors, subcontractors, and employees of the user, a permittee, or the city, and third parties), arising out of, incident to, concerning or resulting from the negligent or willful act of omissions of the permittee, its agents, employees, contractors or subcontractors, in the performance of activities pursuant to this article.

- (2) This indemnity provision shall not apply to any liability attributable to the negligence of the city, its officers, employees, agents, contractors, or subcontractors.
- (3) The provisions of this indemnity are solely for the benefit of the city and are not intended to create or grant any rights, contractual or otherwise, to any other permittee or entity."

SECTION 2.

That this ordinance shall be cumulative of all other ordinances of the City of Saginaw and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 3.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

That all rights or remedies of the City of Saginaw, Texas, are expressly saved as to any and all violations of the City Code or any amendments thereto regarding the discharge of any weapon that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined in accordance with Section 1-13 of the Saginaw City Code.

SECTION 6.

The City Secretary of the City of Saginaw is hereby directed to publish at least twice in the official newspaper of the City of Saginaw, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

SECTION 7.

This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the laws of the State of Texas.

PASSED AND APPROVED ON this the 15 th day of September, 2026.


TODD FLIPPO, MAYOR

ATTEST:


VICKY VEGA, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:


BRYN MEREDITH, CITY ATTORNEY

