

(O-96-114)

ORDINANCE NUMBER O- 18309 (NEW SERIES)

ADOPTED ON MAY 28 1996

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 62.0102 AND 62.0116 AND BY ADDING A NEW DIVISION 11 TO PROVIDE PROCEDURES FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF SAN DIEGO.

WHEREAS, regulation of the manner of use of the public rights-of-way to preserve, conserve and ensure the safe conditions of the public rights-of-way is a municipal affair; and

WHEREAS, the preservation and conservation of public rights-of-way are in the public interest and are important to the public health, safety and welfare; and

WHEREAS, since 1972, public utilities using the public rights-of-way within the City have been signatory to Administrative Practices for Utility Installations in Public Rights-of-Way in the City of San Diego which provided for procedures for public utilities to use the public rights-of-way within the City; and

WHEREAS, the existing Administrative Practices for Utility's Installations in Public Rights-of-Way in the City of San Diego does not adequately protect the public rights-of-way within the City; and

WHEREAS, franchises with the City, and State law, require public utilities to comply with reasonable procedures for preserving both local public rights-of-way and the integrity of public facilities; and

WHEREAS, the actual or proposed deregulation of public utilities and advances in technology have resulted in increased usage of the public rights-of-way by more entities; and

WHEREAS, cuts into the surface of improved public rights-of-way reduce the longevity of such surfaces; and

WHEREAS, the City of San Diego ("City") spends millions of dollars annually to improve and maintain public rights-of-way;

NOW, THEREFORE,

BE IT ORDAINED, by the City Council of the City of San Diego as follows:

Section 1. That Chapter VI, Article 2, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 62.0102 and 62.0116, to read as follows:

**SEC. 62.0102 DEFINITIONS**

For purposes of this Article, the following definitions apply:

"Agricultural clearing" means any clearing that is done to prepare a site for growing agricultural plants or animals.

"Architect" means an architect registered by the State of California, who is engaged in the practice of architecture.

"Brushing" means the removal of vegetation at or above the ground/surface level and root removal within six (6) inches of the ground/surface level.

"Centre City" means all of that area included within the boundaries of the Centre City San Diego Community Plan as adopted by the City Council on May 12, 1976, and as from

time to time amended by the City Council (said Plan being on file in the Office of the City Clerk as Document

No. 755413

"Centre City Review Board" means that board established by Section 62.0209 of the San Diego Municipal Code.

"Certification" means a signed written statement that the specific, required inspections and tests have been performed and that the work complies with the applicable requirements of this article.

"Certify" means the act of producing or creating a certification.

"Civil Engineer R.C.E." means an engineer registered by the State of California to practice in the field of civil engineering.

"Clearing" means the cutting and removal of vegetation from the land without disturbance to the soil surface or destruction of the root system.

"Contractor" means a contractor licensed by the State of California to do work covered by this Article. A contractor may be authorized to act for a property owner in doing such work.

"Cut" has the same meaning as the term "Excavation."

"Drought Resistant Plantings" means the type of plant materials, including seeds, cuttings, or rooted plants, that, once established, are suitable for the conditions of a project site and that can survive normal summer seasons without the provision of supplemental watering.

"Embankment" or "Fill" means the conditions resulting from any act by which earth, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported, or moved to a new location.

"Encroachment" or "Encroachment Structure" means privately owned facilities or structures in the public rights-of-way or on other public property, constructed and maintained by a property owner.

"Engineering Geologist" or "Certified Engineering Geologist" means a geologist, certified by the State of California as a Certified Engineering Geologist (C.E.G.).

"Environmentally Sensitive Lands" means the areas regulated in San Diego Municipal Code section 101.0462 ("Resource Protection Ordinance"), including floodplains, hillsides, wetlands, biologically sensitive lands, and significant prehistoric and historic sites and resources.

"Excavation" or "Cut" means any operation in which earth, sand, gravel, rock, or other material in the ground is moved, by using tools for grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing, drawing, brushing, or other similar activity.

"Fill" has the same meaning as the term "Embankment."

"Geotechnical Engineer" or "Soils Engineer" means a Civil Engineer registered by the State of California as a Geotechnical Engineer (G.E.).

"Grading" means any excavating, filling, embanking, or combination thereof, clearing, grubbing, or agricultural clearing on public or private property, including

constructing slopes and facilities incidental to such work.

"Grubbing" means the removal or destruction of vegetation by removal of, or disturbance to, the root system or soil mantle by any means including chemical.

"Grading Advisory Board" means the advisory board established pursuant to this Article.

"Landscape Architect" means a landscape architect registered by the State of California to practice in the profession of landscape architecture.

"Landscape Contractor" means a contractor who is licensed by the State of California to do landscaping work and who has at least five (5) years of responsible experience in erosion control planting.

"Permittee" means any person to whom a permit is issued pursuant to this Article.

"Person" has the same meaning as in Section 11.0210 of this Code.

"Private Contract" means an agreement between the City and a property owner, or an agent therefor, for construction by the property owner or agent in the public rights-of-way, on other public property, or for grading.

"Property Owner" means any person having a legal or equitable interest in real property.

"Public Improvement" means publicly owned structures or facilities, including the construction thereof, in the public rights-of-way that are designed for public use, safety, or general welfare, and that are maintained by the City.

"Public Property" means property owned in fee by the City or dedicated for public use.

"Public Rights-of-Way" means public easements or public property that are used for streets, alleys or other public purpose.

"Public Utility" means any public utility as defined in California Public Utilities Code Section 216, and any cable operator as defined in Section 602 of the 1992 Cable Television Consumer Protection and Competition Act (47 U.S.C. 602), including their respective contractors, subcontractors, agents, employees or representatives.

"Reservation" means an unaccepted offer of dedication of real property for public rights-of-way, such offer remaining open for future acceptance.

"Slope" means the inclined exposed surface of an embankment, excavation, or natural terrain.

"Soils Engineer" has the same meaning as the term "Geotechnical Engineer."

"Uncontrolled Embankment" means any embankment constructed as grading on which no soil testing was performed or no compaction reports or other soils reports were prepared or submitted.

"Urban Design Program" means that program of urban design standards adopted by the City Council on October 25, 1983, and from time to time amended by the City Council, including all technical supplements thereto (said Program and Supplements being on file in the Office of the City Clerk as Document No. RL-259513 ).

**SEC. 62.0116 PUBLIC IMPROVEMENT, GRADING, ENCROACHMENT  
REQUIREMENTS**

Subsection (a) - no change.

(b) This Article shall not affect the requirements of any other Division of this Code requiring other permits, fees, or charges, including those for water and sewer mains, storm drains, and services.

Subsection (c) - no change.

Section 2. That Chapter VI, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 11 and Sections 62.1101, 62.1102, 62.1103, 62.1104, 62.1105, 62.1106, 62.1107, 62.1108, 62.1109, 62.1110, 62.1111, 62.1112, and 62.1113, to read as follows:

**DIVISION 11**

**PROCEDURES FOR USE OF PUBLIC RIGHTS-OF-WAY BY PUBLIC  
UTILITIES**

**SEC. 62.1101 PURPOSE AND INTENT**

It is the purpose and intent of this Division to provide policies and procedures for the use of the public rights-of-way within the City in order to:

(a) Preserve the public rights-of-way by conserving the limited space available within the public rights-of-way within the City.

(b) Maintain safe conditions for the public use of the public rights-of-way within the City.

(c) Minimize the inconvenience to the public.

(d) Provide specific guidelines for the coordination of placement of installations to ensure a level of street improvement that is functionally safe, and preserves the

integrity of public facilities.

(e) To establish cost recovery mechanisms for inspections.

**SEC. 62.1102 DEFINITIONS**

For purposes of this Division the definitions in Section 62.0102 apply. In addition, the following definitions apply:

"Blockage Report" means a report made on a City-created form indicating the area and type of work to be done in the public rights-of-way.

"California Coordinate System" means the coordinate system used to establish horizontal control, based on the North American Datum of 1983 (NAD83), as established by the National Geodetic Survey pursuant to Public Resources Code sections 8801-8819.

"Cathodic Protection" means control of external corrosion on underground or submerged metallic systems.

"City's Standard Drawings" means that document on file in the Office of the City Clerk as Document No. 769819.

"Decorative Surface" means any non-standard surface on the public rights-of-way such as ceramic tile, concrete pavers, stamped concrete, or other surface using a unique treatment.

"Dry Utilities" means all public utilities other than those providing water, gas and sewage services.

"Inspection Fee" means the fee assessed pursuant to Section 62.1107 to reimburse the City for its costs of inspecting work in the public rights-of-way within the City.



"Installations" means any type of structure, apparatus, plant, equipment or other property installed in the public rights-of-way.

"Joint Trenches" means the mechanism approved by the City Engineer for the shared use by Dry Utilities of limited space in the public rights-of-way.

"Markout" means a marking on the pavement that identifies the type and approximate horizontal location of underground installations.

"Pavement" means the fully improved roadway surface within the public rights-of-way, designed and constructed to support the movement of vehicular traffic. Pavement typically consists of asphaltic concrete or Portland cement concrete.

"Pothole" means a limited excavation used to determine the actual (vertical and horizontal) location of underground installations.

"Trenching" means the type of excavation for the placement of installations in the public rights-of-way in accordance with City's Standard Drawings.

"Trench Plate" means a temporary structural steel plate, secured in place, to safely support legal loads over excavations in the public rights-of-way.

"Underground Service Alert" means the state-mandated agency responsible for, after receiving notice of a planned excavation, notifying all public utilities that have underground installations in the public rights-of-way prior to any excavation.

"Unimproved Rights-of-Way" means City rights-of-way that do not have pavement and do not have a sidewalk, curb or gutters.

**SEC. 62.1103 AUTHORITY OF CITY ENGINEER AND DUTY TO OBTAIN CITY ENGINEER APPROVAL**

The City Engineer is authorized to adopt procedures to implement this division. All persons shall obtain written authorization from the City Engineer before commencing any work on public rights-of-way within the City.

**SEC. 62.1104 RECORDS**

(a) All persons with installations in the public rights-of-way shall maintain accurate records relating to the location of that person's installations. For this purpose the person shall use the California Coordinate System or the current system used by the person, providing that such system can be readily understood by others. Such records may not be relied upon to provide information other than the approximate location of the person's installations.

(b) Within fifteen (15) days of receipt of a request, all persons shall make these records available to the City.

**SEC. 62.1105 INSTALLATIONS**

(a) All persons wishing to work in the public rights-of-way shall first call for markout, then pothole, whenever any excavation in the public rights-of-way makes it necessary to know the exact horizontal and/or vertical placement of that person's installations.

(b) All such persons shall give Underground Service

Alert a minimum of two (2) working days advance notice before any markout or pothole is commenced.

(c) If unforeseeable circumstances arise requiring immediate action, marking-out and potholing shall be done within twenty-four (24) hours after Underground Service Alert is notified.

(d) Markouts on decorative surfaces shall be removed upon completion of the work.

(e) All cuts shall be made with a sawcut, rockwheel or other method approved by the City Engineer.

(f) New installations placed in the public rights-of-way shall occupy the locations indicated in the City Standard Drawings unless otherwise authorized by the City Engineer.

(g) All installations placed in the public rights-of-way shall comply with City's Standard Drawings.

**SEC. 62.1106 DOCUMENTS REQUIRED FOR CITY ENGINEER AUTHORIZATION**

(a) All persons placing installations in the public rights-of-way shall file a Blockage Report with the City Engineer no later than two (2) working days prior to commencing any work. After review of the Blockage Report, the City Engineer may require that person to file a traffic control plan.

(b) For any installations funded by a public utility, other than lateral installations or other minor installations as determined by the City Engineer, at least two (2) months prior to beginning any cut, the public

utility shall submit to the City Engineer copies of maps which indicate the area and location of installations. For any installations funded by public utility customers, the public utility shall provide the requisite number of copies of maps as soon as such installation is planned.

**SEC. 62.1107 INSPECTION FEES; INSPECTIONS**

(a) All persons placing installations in the public rights-of-way shall pay an inspection fee to the City Engineer. The City Engineer has the authority to set the schedule of fees collected pursuant to Section 62.1107 provided that such fees do not exceed the reasonable cost of conducting the random inspections authorized by Section 62.1107(f). The inspection fee will be used to reimburse the City for the costs of conducting the random inspections set forth in Section 62.1107(f).

(b) The inspection fee shall be paid either: (1) prior to each inspection, or (2) by making payment to the City within thirty (30) calendar days of having received an invoice from the City. Invoices will be sent by the City no more frequently than on a monthly basis.

(c) If a person elects to make an annual deposit, upon request by the City Engineer, the person shall deposit additional money when the funds on deposit are exhausted.

(d) Funds on deposit shall be carried forward from year to year until expended.

(e) If a person makes a payment pursuant to Section 62.1107(b)(2), the City Engineer will, within thirty (30) days of receipt of payment, provide that person with a copy

of the field reports from inspections and a detailed accounting of the number of City staff hours performed on the inspections.

(f) The City Engineer may conduct random inspections of any work being done in the public rights-of-way, based on information provided in the Blockage Report. The City Engineer may inspect the work for compliance with all applicable laws, ordinances and construction standards with emphasis on the following:

(1) Traffic control procedures.

(2) Compliance with City street restoration standards.

(3) Compliance with the pavement cutting procedure.

(g) If a City inspection discloses nonconformance with any of the requirements of this Division, the City shall provide written notice of the nonconformance within five (5) working days. The person placing the installation shall implement the corrective work specified by the City Engineer within five (5) working days of receipt of written notice of nonconformance. If the corrective work is not completed within five (5) working days of receipt of written notice of nonconformance, the City may perform the necessary repairs and all costs related to the repair shall be charged to the person placing the installation.

(h) The City Engineer shall have the authority to stop work and to request that the excavation be uncovered to certify compliance with this Division.

(i) Any City work done directly or indirectly to ensure compliance with the provisions of this Division shall be charged to the person placing the installation which requires the City work.

(j) Any work done which is the result of a City required project shall be exempt from the inspection fee requirement of Section 62.1107.

**SEC. 62.1108 [RESERVED FOR FUTURE USE]**

**SEC. 62.1109 PAVEMENT RESTORATION**

(a) All persons excavating in the public rights-of-way shall restore pavement at the end of each day with either temporary or permanent pavement.

(b) If permanent surfacing material cannot be installed within forty-eight (48) hours, by the end of each day all intersections, pedestrian crossings and other locations as required by the City Engineer shall be trench-plated or backfilled such that the excavation may be driven upon by vehicular traffic.

(c) All damaged pavement shall be restored with surfacing material which matches both the surface and the structural strength of the adjacent surface.

(d) All pavement on the public rights-of-way shall be restored with permanent surfacing material within seven (7) days where there are more than two lanes of travel, and within thirty (30) days where there are two or fewer lanes of travel.

(e) Any striping removed or temporarily placed shall be restored within twenty-four (24) hours where there are

more than two lanes of travel, and within seventy-two (72) hours where there are two or fewer lanes of travel.

**SEC. 62.1110 RESTORATION OF DECORATIVE SURFACES**

In addition to the requirements of Section 62.1108, in any area where there is a decorative surface on the pavement:

(a) Before disturbing any decorative surface, all persons excavating in the public rights-of-way shall provide information to the City Engineer to establish that it is necessary to disturb the decorative surface because other alternatives, such as rerouting, boring, jacking or scoping, cannot be used.

(b) Before commencing work on the decorative surfaces, specifications shall be prepared that are designed to minimize destruction and ensure restoration of the same quality of surface. The specifications shall be submitted to the City Engineer for approval.

(c) Written notice shall be delivered to the City Engineer at least two (2) working days before starting construction or trenching that will involve any disturbance of decorative surfaces. The notice shall include the location and estimated start and completion dates.

(d) If unforeseeable circumstances arise requiring immediate action, written notice shall be delivered to the City Engineer as soon as possible upon the start of construction.

(e) If the unforeseeable circumstances requiring immediate work arise after normal business hours, written

notice shall be delivered to the City Engineer at the beginning of the next regular working day.

(f) If it is necessary to remove any decorative surface, it shall be removed without damaging adjacent surface material.

(g) In the public rights-of-way in the Centre City area of City, removable sections shall be designed and installed over any installations involving a decorative surface to provide access to the installations without destroying the decorative surface.

(h) Decorative surfaces shall be restored, at no cost to the City, with surfacing material that matches both the surface and the structural strength of the adjacent surface.

**SEC. 62.1111 SAFETY AND TRAFFIC CONTROL**

(a) All persons working in the public rights-of-way shall be responsible for the safe movement of both vehicular and pedestrian traffic through that person's construction and maintenance operations.

(b) The City Engineer shall be notified of scheduled construction at least two (2) working days before commencing work.

(c) Signs, warning devices, traffic control plans and general conditions of safety, as described either in the City's Standard Drawings or other State standards, shall be maintained.

(d) All persons performing work in the public rights-of-way shall identify him, her or itself with on-site signs indicating the name of the person and the phone number to



call in case of a complaint or emergency. Such signs shall remain on-site for two (2) weeks after completion of work.

**SEC. 62.1112 RELOCATION OF INSTALLATIONS**

(a) All persons maintaining installations in the public rights-of-way shall relocate their installations whenever such relocation is necessary for the construction of public improvements by the City. The cost of the relocation shall be borne by the person.

(b) When installations need to be relocated as a result of construction other than by the City, the cost of such relocation shall be borne by the person undertaking the construction. That person shall contact the owner of the installations affected by the work to advise them of proposed improvements. That person shall also make specific arrangements for the relocation of any conflicting installations.

**SEC. 62.1113 CATHODIC PROTECTION**

(a) Public utilities maintaining installations in the public rights-of-way shall provide Cathodic Protection in accordance with the practice of the National Association of Corrosion Engineers (NACE).

(b) If the NACE standards conflict with either the California Department of Transportation or California Public Utilities Commission's requirements, the most stringent requirements shall govern.

**SEC. 62.1114 QUALITY CONTROL**

(a) All persons performing work in the public rights-of-way are solely responsible for ensuring that the work

performed, whether by that person, contractors, subcontractors, employees, agents or representatives, complies with all applicable City and State standards.

(b) At the beginning of each calendar year, each public utility with installations in the public rights-of-way shall submit a quality control plan and emergency closure plan to the City Engineer for approval.

(1) The quality control plan shall indicate the number of inspectors and the areas to which they are assigned.

(2) Each emergency closure plan shall indicate steps to be taken during a flood or earthquake to address safety issues.

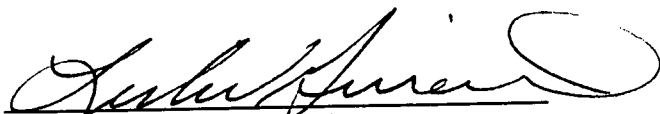
(3) An emergency closure plan shall be filed with the City Engineer and with the City Emergency Operations Center.

Section 3. The City Clerk is hereby directed to insert the appropriate document numbers in the blank spaces provided in Section 62.0102.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By



Leslie J. Girard  
Chief Deputy City Attorney

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# Telecommunications Coalition For Quality Street Construction

#574  
Best in  
Chambers 5/6  
2:00 PM  
MS

May 6, 1996

*AT&T*

Mayor Susan Golding  
Members of the City Council  
City of San Diego  
202 C Street  
San Diego, CA 92101

*Cox  
Communications*

**Subject: Proposed Right-of-Way Ordinance**

Dear Mayor Golding and Councilmembers:

*Pacific Bell*

Since late January, the local utilities have worked cooperatively with the City Manager and the City Engineer to refine an ordinance to improve coordination and provide for greater quality control of construction undertaken by utilities in the public right-of-way. The result of this effort is before you today for approval.

*Southwestern  
Cable TV*

*Teleport  
Communications  
Group*

The Telecommunications Coalition for Quality Street Construction is supportive of this ordinance and urges the City Council to move forward with an approval today. The proposed ordinance will institute new procedures that will resolve many of the concerns expressed by citizens regarding the increased level of utility construction in recent months. The ordinance will encourage greater coordination between utilities with a requirement to submit plans for major projects a minimum of two months in advance of work. More importantly, the ordinance requires utilities to pay an inspection fee that will reimburse the City for costs of increased quality control inspections of street cut work.

*Time Warner AxS  
Of California*

The Coalition appreciates the cooperative effort of the City Engineer on drafting this ordinance. His letter to the Coalition date May 2, 1996, clarifying Section 62.1106(b) regarding the application of that section to customer service installations is also appreciated. The Coalition would appreciate acknowledgment of this letter as part of your approval action for this ordinance.

225 Broadway • Suite 1600 • San Diego, CA 92101  
(619) 236-1332 (Telephone) • (619) 236-0683 (Fax)

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San Diego City Council  
May 6, 1996  
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Again, the Coalition appreciates the cooperative relationship that has developed with the City to fashion this ordinance. We look forward to working together with the City in the coming months as staff completes its study of pavement maintenance procedures.

Sincerely,

A handwritten signature in cursive script that reads "Bernie Rhinerson".

Bernie Rhinerson  
Coalition Coordinator



THE CITY OF

# SAN DIEGO

CITY ADMINISTRATION BUILDING • 202 C STREET • SAN DIEGO, CALIF. 92101 - 3869

ENGINEERING  
DEPARTMENT  
(619) 236-6274

May 2, 1996

Bernie Rhinerson  
Coalition Coordinator  
Telecommunications Coalition  
for Quality Street Construction  
225 Broadway  
Suite 1600  
San Diego, CA. 92101

Dear Mr. Rhinerson

Over the past few months we have been discussing the Right-of-Way Ordinance which will be before the City Council on May 6, 1996. Yesterday we discussed the version dated May 1, 1996, which had been changed from an earlier version.

Specifically, we discussed Section 62.1106(b) which you had earlier requested be changed. This subsection requires that public utilities provide the City Engineer with maps at least two months in advance of performing any work funded by them except for those occasions relating to "lateral installations or other minor installations as determined by the City Engineer". Our discussion involved what types or quantities of work could be anticipated as "minor".

As I stated during our discussion, I purposely avoided quantifying this section (i.e. work less than "x" feet in length) so as to give both the City and utilities the flexibility necessary to serve the public. As I believe you are aware, the reason and focus of this ordinance is the larger infrastructure type work, such as the recent fiber optic installation, that is typically planned by the utility. Our focus is not on the work that is necessary to provide a service to an individual or small number of customers, which often requires a quick turn-around time on the utility's part.

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DIVERSITY  
BRINGS US ALL TOGETHER

Please accept this letter as the City Engineer's commitment that if a utility, in order to satisfy its commitment to provide service to a customer in a timely manner, cannot provide the City with maps or notice two months in advance of doing the work, that the utility will be allowed to proceed as it believes necessary. We would, of course, expect to be informed as quickly as possible.

If you have any questions feel free to call me.

Sincerely,



Frank Belock, Jr.  
Director

FB:mv

cc: Hossein Ruhi  
Les Girard

ord.rw

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