

ORDINANCE NO. 2009-022

Adopted by the Sacramento City Council

April 30, 2009

**AN ORDINANCE REPEALING AND REENACTING CHAPTER 12.12 OF THE
SACRAMENTO CITY CODE, RELATING TO ENCROACHMENT PERMITS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

BACKGROUND

Section 1

Chapter 12.12 of the Sacramento City Code is hereby repealed.

Section 2

Chapter 12.12 of the Sacramento City Code is hereby reenacted as follows:

**ENCROACHMENT PERMITS, EXCAVATIONS, AND
PLACEMENT OF FACILITIES IN PUBLIC RIGHTS-OF-WAY**

**ARTICLE I
IN GENERAL**

12.12.010 Definitions

The following terms used in this chapter shall have the meanings set forth below:

“Applicant” means the person applying for an encroachment permit, as well as any person owning or operating facilities or requesting to install facilities for which the encroachment permit is being requested.

“City” means the City of Sacramento.

“Director” means the director of the Department of Transportation or his or her designee.

“Encroachment” means the use of City rights of way to perform excavations, construction related work, window cleaning; to access overhead or underground public or private utilities; to pressure wash sidewalks or driveways; to place or store construction equipment, materials, trailers, containers, dumpsters, or bins; or for any other similar or related purposes.

“Permittee” means the person to whom an encroachment permit is issued, as well as the person owning or operating the facility or installation for which the encroachment permit is issued.

“Person” means any individual, agency or other public or private entity, firm, business, franchisee, contractor, corporation, partnership or other combination of individuals of whatever form or character, excepting the city or a contractor performing work for the city.

“Public right of way” means the area across, beneath, in, on, over, under, along and within the public streets, roads, sidewalks, and alleys within the City and includes public utility easements dedicated to the City.

“Utility box” means any underground box, terminal or enclosure.

“Utility cabinet” means any above ground cabinet, pedestal, transformer, communications terminal or box, feature or appurtenance.

“Utility company” means a public or private entity, excluding the City of Sacramento, that provides utility services including but not limited to electricity, gas, sewer, water and communications.

“Utility pole” means any structure used to support overhead wires, cables, transformers, and appurtenances, and includes guy wires used for supporting utility poles.

“Utility vault” means any underground room providing access to subterranean utility equipment.

12.12.020 Encroachment Permit Required – Except Emergencies

It is unlawful for any person to encroach within public rights of way or other City property without first obtaining an encroachment permit from the director and to comply with the requirements of the permit.

Nothing in this chapter shall be construed to prevent any person maintaining any utility facilities in or under any right of way by virtue of any law, ordinance or permit, from encroaching in the public right of way as may be necessary for the preservation of life or property when the necessity arises, provided that the person shall notify the director within one day after the offices of the city are first opened subsequent to the encroachment. Except as specifically provided otherwise in this chapter, encroachments authorized by this section shall be subject to all fees and requirements of this chapter.

12.12.030 Application-Requirements

- A. Before the City issues an encroachment permit, the applicant shall submit a written application on a form furnished by the director, setting forth:
1. The name and residence or business address of the applicant;
 2. The location and approximate area of the encroachment;
 3. The purpose, a plan or drawing, and a schedule for the proposed period of encroachment;
 4. A traffic control plan, if required.
 5. Any additional information required by Article II of this Chapter relating to excavations.

- B. The applicant shall pay a nonrefundable fee in an amount established by resolution of the city council to defray the city's costs to process the application and provide for site inspections. The fee may include costs incurred by the city to maintain an inventory or database of facilities that are installed, repaired or removed. If the director determines the fee to be inappropriate based on the amount of work to be done to process the application, to inspect the work and to maintain said inventory or database, or for other good cause shown, the director may waive the fee, in whole or in part.
- C. No fee or requirement authorized or imposed pursuant to this chapter shall be construed to affect or alter in any way any obligation of public and private utilities with facilities installed in any public right of way to relocate the facilities at no cost to the city, in the event that relocation is required by the city to accommodate a proper governmental use of the public right of way.

12.12.040 Permit—Issuance

- A. Upon receipt of a written application for an encroachment permit, the director shall determine and set forth all requirements, approve or disapprove the application, and, if approved, sign and return it to the applicant with a permit number.
- B. No permit shall be transferable.
- C. Each permit shall state a time period for commencement and completion of all the permitted work. The director may grant extensions of time for good cause.
- D. The director may modify the permit if circumstances or conditions appearing after commencement of the work is commenced make it impossible to comply with the requirements of the permit.
- E. No person in violation of any requirement of this chapter shall be issued an encroachment permit, nor shall any contractor or agent apply for or be issued an encroachment permit on the person's behalf, until the outstanding violation is corrected or a plan for correction is approved by the director, which approval shall not be unreasonably withheld. The foregoing requirement is in addition to any penalty or remedy for violation that may be imposed or sought by the city at law or equity.

12.12.050 Compliance with safety regulations

The permittee shall comply with all current federal, state and local safety regulations and all federal and state disability laws including those requiring an accessible path of travel.

12.12.060 Cleaning up streets

The permittee shall remove from the public rights of way all obstructions, surplus materials, debris and waste matter of every description caused by and accumulated from the permittee's work or activities.

12.12.070 Failure to complete work within specified time

If any part of the work referred to in this chapter is not completed within the time set forth in the permit, the director may provide written notice to the person performing the work to complete the work within forty-eight (48) hours thereafter, legal holidays excepted. If the work is not completed within this time period, the director may cause the work to be performed, including such work as will restore the work area to a safe and passable condition until the work can be completed. The cost thereof, including any inspection costs and administrative overhead incurred by city, shall be paid by the permittee within 30 days of notice of the cost.

12.12.080 All work to be under supervision of the director

Any person engaged in activities authorized under an encroachment permit shall, at all times while such work is in progress, keep at the job location the original permit, or a copy thereof, and on demand, exhibit the permit to the director or any police officer. At all times while the work is in progress the person shall also maintain at the job location, a sign, barricade, or other device bearing the person's name. If required by the director, the person performing work shall also display the permit number and the City's Construction Hotline Number.

12.12.090 Blanket permits

The director may issue blanket permits to any person to encroach within the public right of way or public utility easement for utility service connections, for the location of trouble in utility conduits or pipes and for making repairs thereto, or for emergency purposes. Blanket permits shall be issued on a yearly basis only, and shall authorize only encroachments referred to in this section. Except as specifically provided otherwise in this chapter, encroachments authorized by this section shall be subject to all fees and requirements of this chapter.

12.12.100 Liability of city

Neither the city nor any city officer or employee shall be responsible for any damage or loss caused by any encroachment or excavation in any public right of way made by any person under the authority of a permit issued pursuant to the provisions of this chapter. The permittee shall be solely liable for any damage or loss arising out of or in any way connected with such encroachment or excavation, and shall fully indemnify, hold harmless and defend city, its officers and employees from and against any and all suits, actions, judgments, losses, costs, demands, claims, expenses (including attorney's fees), damages, and liabilities of every kind arising out of or in any way connected with such encroachment or excavation, whether or not caused in part by the passive negligence of the city.

12.12.110 Additional requirements.

- A. In addition to the requirements of this chapter, cable television franchisees and licensees shall construct facilities in accordance with the provisions of Chapter 5.28 of this code. In the event of any conflict between the requirements of this chapter and the provisions of Chapter 5.28, the provisions of Chapter 5.28 shall govern.

- B. All utility installations permitted under this chapter shall, upon demand of the director, be relocated or modified if required by the city to avoid potential conflicts with a proper governmental use of a public right of way. All expenses incurred in relocating, lowering lines, potholing or marking of facilities to determine their exact location after the original installation shall be paid for by the permittee.
- C. Upon completion of underground or surface work permitted under this chapter and at the discretion of the director, permittee shall furnish as built plans of the installation showing a correct plan view to scale, details and a profile showing the locations of all elements of the installation based on data obtained in the field during construction.
- D. Permittees other than utility companies shall comply with the following additional requirements:
 - 1. Permittee shall take out, pay for and maintain during the period in which the permit is in effect, a policy of public liability and property damage insurance protecting permittee, permittee's agents and employees against any liability, injury or death sustained or suffered by the public or damage to the property of the public by reason of the work carried on under the permit. The public liability insurance shall be for the limits of at least three hundred thousand dollars (\$300,000.00) for injury to one and five hundred thousand dollars (\$500,000.00) for injury to more than one person, and the property damage insurance limit shall be at least one hundred thousand dollars (\$100,000.00). The insurance shall be placed with a company satisfactory to the risk management division of city, prior to the date that work under the permit is commenced. The policy or policies of insurance shall name the city, its officers and employees as additional named insured's and shall contain an endorsement precluding cancellation or reduction in coverage without giving the risk management division at least ten (10) days written notice prior thereto.
 - 2. If required on the face thereof, the permit shall not be effective for any purpose unless and until the permittee files with the risk management division a bond or other security approved by the risk management division in the amount specified on the face of the permit, said bond or other security to fully assure the performance by permittee of all obligations imposed upon permittee under the provisions of the permit and this chapter.

12.12.120 Enforcement.

Violation of the terms, conditions and requirements of this Chapter and any permit issued pursuant to this chapter by the permit holder shall subject the permit holder to the following actions and penalties:

- A. Administrative Penalties. The director may issue an order imposing an administrative penalty to any person violating any provision of this chapter.
 - 1. Notwithstanding any contrary provision of this code, each day a violation of the

following code provisions occurs shall constitute a separate violation, and shall be subject to a separate penalty:

- a. Section 12.12.020;
 - b. Section 12.12.070;
 - c. Section 12.20.080;
2. If applicable, additional administrative penalties may be assessed in accordance with the provisions of Chapter 12.20.
 3. The administrative penalty for each violation of any provision of this chapter shall be seven hundred and fifty dollars (\$750.00). Violations of a specific section of this chapter by the same person occurring during the same work but located in different blocks or located in the same block but occurring on different days or at different times on the same day shall constitute separate violations for which separate administrative penalty orders may be issued.
 4. In addition to the aforementioned penalties, the city may withhold issuance of permits for encroachment or excavation in a city street (issued pursuant to Chapter 3.76 or Chapter 12.12 of this code) to any person receiving a final administrative penalty order for a violation of any specific provision of this chapter three times within a two year period; the city may withhold issuance of permits for a period of not longer than two years after said administrative penalty orders are final. Multiple administrative penalty orders issued for continuing violations occurring on the same calendar day shall be considered one administrative penalty order for purposes of this section.
- B. Imposition of the Administrative Penalties. The administrative penalty order shall be imposed in accordance with the provisions of Section 128.010 of this code, and shall contain the following:
1. The name and address of the violating party, if known;
 2. The location, date and time of the violation;
 3. A description of the act(s) or condition(s) violating this chapter;
 4. The amount of the administrative penalty, with instructions for submitting payment to the city;
 5. A statement indicating that the administrative penalty may be appealed, in accordance with the provisions of Section 1.28.010(D)(4) of this code, by filing a written notice of appeal with the city clerk no later than twenty (20) days after the order is issued to the violator;

6. A statement indicating that the order imposing the administrative penalty shall be final if it is not appealed within the time required;
7. A statement indicating that a party upon whom a final administrative penalty has been imposed may seek review of the order imposing the penalty pursuant to California Code of Civil Procedure Sections 1094.5 and 10946. (Ord. 2005-082 § 1: Ord. 2002-004 § 8, 2002)

All other remedies available to the City including but not limited to criminal and civil proceedings.

ARTICLE II ADDITIONAL REQUIREMENTS FOR EXCAVATIONS

12.12.130 Permit requirements for excavations

It is unlawful for any person to make or cause to be made any excavation in the public right of way, or any other public place for the installation, repair or removal of any pipe, conduit, duct, tunnel, utility pole, or any other facility or installation or for any other purpose without first obtaining from the director an encroachment permit in compliance with this Article.

12.12.140 Permit—Requirements

In addition to the requirements for an encroachment permit set forth in Article I, an application to excavate shall include the following:

- A. The specific location and area of the excavation, including its approximate length and width, and, if the excavation is in a street, whether it is parallel or transverse to the direction of the travel lanes. The applicant shall attach to the application form a plan showing the location of the proposed excavation, the dimensions thereof, and any other details the director may require.
- B. Except as otherwise provided by franchise or agreement, at the time any permit is issued for excavation of a paved street, the applicant shall pay a trench cut cost recovery fee, in addition to the fee required by Article I of the chapter. The fee shall not exceed an amount reasonably necessary to recover the estimated costs for all future maintenance, repair or resurfacing that would be necessary to fully mitigate the damage and degradation caused by the excavation to the pavement located adjacent to the trench where the excavation occurs. The fee shall be highest for excavations in newly surfaced streets and shall decrease as the age of the street surface being excavated increases. The amount of the trench cut cost recovery fee shall be established from time to time by resolution of the city council. The director shall adopt procedures requiring the payment of the trench cut cost recovery fees by all city departments and divisions performing excavations in city streets.

- C. The trench cut cost recovery fee required by subsection B of this section, shall not be charged for the following excavations: (1) excavations in a street that the city has scheduled for resurfacing either during the fiscal year (July 1st through June 30th) when the encroachment permit is issued or during the immediately following fiscal year; (2) excavations in a street where the existing pavement quality is already so poor that the pavement quality index, as defined by the city's pavement management system, is less than four on the date the encroachment permit is issued; (3) excavations for potholing or to install utility poles; (4) excavations that will include resurfacing of the street where the excavation is made, provided that the resurfacing is approved by the director; and (5) excavations made for a utility relocation required by the City to accommodate a proper governmental use of a street, alley, sidewalk or other public place. As used in this chapter, the term resurfacing shall mean any repaving, overlay, seal or reconstruction which constructs a new pavement surface over the entire width of the street, excluding crack seals.
- D. All moneys paid to the city under subsection B of this section, shall be deposited in a special fund or funds and shall be expended only for the resurfacing of city streets.
- E. Except for requirements subject to the exclusive jurisdiction of another regulatory agency, the location, depth and other physical characteristics of any facilities for which an encroachment permit is issued shall be subject to approval of the director, and all backfilling, compaction and pavement restoration performed for any excavation shall comply with the requirements of this chapter.
- F. No fee or requirement authorized or imposed pursuant to this chapter shall be construed to affect or alter in any way any obligation of public and private utilities with facilities installed in the public right of way to relocate the facilities at no cost to the city, in the event that relocation is required by the city to accommodate a proper governmental use of the public right of way.

12.12.150 Restoration of pavement.

Unless otherwise specified in the permit, restoration of the pavement or other surface of any right of way or other public place shall be performed by the permittee. Nothing in this section shall relieve the person opening or tearing up any pavement from the responsibility to maintain the excavation or installation in a safe condition until it is repaved or restored.

If the temporary pavement over an excavation is not maintained in a safe and acceptable manner until restored, and the permittee does not respond or is not able to respond in a timely manner to repair or replace any temporary pavement as required by the director, the director may cause the work to be done. The cost thereof, including any inspection costs and administrative overhead incurred by the city, shall be assessed against the permittee.

12.12.160 Opening, backfilling and paving trenches.

- A. No trench shall be opened in any street for the purpose of laying pipes, conduits or ducts more than four hundred (400) feet in advance of the pipe, conduit or ducts being placed in the trench, except when the prior written consent of the director has been obtained.
- B. All excavations shall comply with the standards and requirements established from time to time by the director for compaction, backfill and pavement restoration. The standards and requirements may vary for different excavations, taking into consideration relevant factors, such as: (i) the location, type and extent of excavation performed, (ii) the condition of the surface being excavated, and (iii) the period of time elapsed since the construction or most recent resurfacing of the surface being excavated. The standards and requirements shall be reviewed at least once every five years to determine whether any changes can be made to prevent or substantially reduce the degradation and damage caused to the street surface by excavation. As part of such review, the director shall provide affected utility companies with an opportunity to review and comment upon the standards and requirements and any changes proposed thereto.
- C. The excavated pavement and other rubble shall be removed, together with any surplus excavated material, within one working day from the time such material is placed upon the street, provided that exceptions to this requirement may be approved by the director. After backfilling is completed, and prior to repaving the cut, the contractor or permittee shall remove all loose paving material and trim the edges of the excavation at the street surface to the satisfaction of the director.
- D. Whenever any caving occurs in the sidewalls of any excavation, the pavements above such caving shall be cut away. In no case shall any void under a pavement be filled by any side or lateral tamping.

12.12.170 Repair of sunken pavement over excavation.

In case the pavement or the surface of the street or alley over any excavation should become depressed or broken at any time within five years after the excavation has been completed and before resurfacing of the street or alley, natural wear of the surface excepted, the permittee shall, upon written notice from the director, immediately proceed to inspect the depressed or broken area over the excavation to ascertain the cause of the failure. The permittee shall make repairs to the installation or backfill and have the pavement restored as specified by the director, within such time period as may be specified by the director. The trench cut cost recovery fee established by Section 12.12.140(B) of this chapter, shall not be charged for work performed under this section. If the pavement is not restored as specified by the director within the time period specified by the director, and unless delayed by a strike or conditions beyond permittee's control, the director may cause the work to be done after giving the permittee twenty-four (24) hours final notice. The cost thereof, including any inspection costs and administrative overhead incurred by city, shall be assessed against the permittee. After the cost is paid to city, the city shall be responsible for any future repairs of that portion of pavement over the excavation that was repaired by city forces.

12.12.190 Coordination of excavations.

- A. Any utility company owning, operating or installing in rights of way or any other public places facilities providing water, sewer, gas, electric, communication, video or other utility services, shall prepare and submit to the director a utility master plan, in a format specified by the director, that shows the location of the utility company's existing facilities in city streets, alleys, sidewalks and other public places, and shows all of the utility company's planned major utility work in city streets, alleys, sidewalks and other public places. Utilities shall submit an initial utility master plan no later than one hundred eighty (180) days after the effective date of the ordinance adopting this section. Thereafter, each utility company shall submit semi-annually, on the first regular business day of January and July, a revised and updated utility master plan. As used in this subsection, the term planned major utility work refers to any and all future excavations planned by the utility company when the utility master plan or update is submitted that will affect any public right of way or other public place for more than five days, provided that the utility company shall not be required to show future excavations planned to occur more than five years after the date that the utility master plan or update is submitted.
- B. Any city department owning, operating or installing utility facilities in public rights of way shall prepare and submit to the director a utility master plan that shows the location of the department's existing facilities in rights of way and other public places, and shows all of the department's planned major utility work in rights of way and other public places. An initial utility master plan shall be submitted no later than one hundred eighty (180) days after the effective date of the ordinance adopting this section. Thereafter, each such department shall submit semi-annually, on the first regular business day of January and July, a revised and updated utility master plan. As used in this subsection, the term planned major utility work refers to any and all future excavations planned by the department when the utility master plan or update is submitted that will affect any public right of way or other public place for more than five days, provided that the department shall not be required to show future excavations planned to occur more than five years after the date that the utility master plan or update is submitted.
- C. The director shall make all utility master plans submitted in accordance with subsections A and B of this section available for public inspection.
- D. The director shall prepare a five year repaving plan showing the street resurfacing planned by the city for the next five years. The five year repaving plan shall be revised and updated on a semi-annual basis after receipt of the utility company's and city departments' utility master plans and updates. The director shall make the city's five year repaving plan available for public inspection. In addition, after determining the street resurfacing work that is proposed for each year, the director shall send a notice of the proposed work to all utility companies that have current utility master plans on file.
- E. Prior to applying for an encroachment permit, any person planning to excavate

in the public right of way or other public places shall review the utility master plans and the city's five year repaving plan on file with the director and shall coordinate, to the extent practicable, with the utility and street work shown on such plans to minimize damage to, and avoid undue disruption and interference with the public use of such rights of way or other public places.

- F. Excavations in city streets disrupt and interfere with the public use of city streets and damage the pavement. The purpose of this section is to reduce this disruption, interference and damage by promoting better coordination among utility companies making excavations in city streets and between those utility companies and the city. Better coordination will assist in minimizing the number of excavations being made wherever feasible, and will ensure that excavations in city streets are, to the maximum extent possible, performed before, rather than after, the resurfacing of the streets by the city. Coordination also provides a means for utility companies to avoid payment of a trench cut cost recovery fee either by eliminating the need for a new excavation, or, if an excavation is made, by allowing the excavation to qualify for an exemption from the trench cut cost recovery fee pursuant to Section 12.12.140 of this chapter. However, even utility companies performing the best possible coordination will find it necessary to make excavations that do not qualify for an exemption from the trench cut cost recovery fee. For this reason, and in order to provide a further incentive for such utility companies to perform the best possible coordination, if a utility company coordinates its work with other utility companies and/or the city so that no trench cut cost recovery fee is required for at least eighty (80) percent of the linear feet of its total excavations in city streets during a calendar year, the utility company shall receive a refund, without interest, of one-quarter (twenty-five (25) percent) of the trench cut cost recovery fees the utility company paid during that year. If a utility company coordinates its work with other utility companies and/or the city so that no trench cut cost recovery fee is required for at least ninety (90) percent of the linear feet of its total excavations in city streets during a calendar year, the utility company shall receive a refund, without interest, of one-half (fifty (50) percent) of the trench cut cost recovery fees the utility company paid during that year. If a utility company coordinates its work with other utility companies and/or the city so that no trench cut cost recovery fee is required for at least ninety-five (95) percent of the linear feet of its total excavations in city streets during a calendar year, the utility company shall receive a refund, without interest, of one hundred (100) percent of the trench cut cost recovery fees the utility company paid during that year. Upon appropriation by the city council, city funds authorized for the purpose of maintenance, repair or resurfacing of city streets shall be transferred to the special fund or funds created pursuant to Section 12.12.140(D) of this chapter, to replace any amount refunded pursuant to this subsection. The director shall adopt procedures for implementing this subsection.

12.12.200 Appeal of director's decision—Protest of trench cut cost recovery fee.

- A. A person directly and adversely affected by a decision made by the director pursuant to the provisions of this chapter may appeal the director's decision by filing a written notice of appeal with the city manager no later than ten (10)

working days after receiving notice of the director's decision. The notice of appeal shall set forth the name, mailing address and telephone number of the person appealing. The notice of appeal shall include or attach a statement describing the action being appealed, setting forth the grounds for the appeal, and describing the action requested of the city manager. The scope of the appeal shall be limited to the grounds specified in the notice of appeal. No later than thirty (30) days after the filing of a timely notice of appeal, the city manager shall render a decision on the appeal. The city manager's decision may affirm, reverse or modify the decision appealed. A copy of the city manager's decision shall be provided to the person appealing at the address shown on the notice of appeal. Said person may appeal the city manager's decision to the city council by filing a written notice of appeal no later than ten (10) working days after the city manager's decision is received by the person, in accordance with the provisions of Sections 1.24.010 and following of this code.

- B. Any person required to pay a trench cut cost recovery fee pursuant to Section 12.12.140(B) of this chapter who desires to protest or otherwise challenge imposition of the fee shall tender to the city payment in full of the fee when due, accompanied by a written notice containing the following information:
1. A statement that the required payment is tendered under protest; and
 2. A description of the factual and legal basis for the protest.
- C. Any judicial action or proceeding to attack, review, set aside, void or annul the imposition of a trench cut cost recovery fee for which a written notice of protest is filed pursuant to subsection B of this section, shall be filed no later than ninety (90) days after the notice is received by the city.

ARTICLE III UTILITY FACILITIES

12.12.210 Purpose.

The purpose of this article is to promote the general health, safety and welfare of the citizens of the City of Sacramento by:

- A. Establishing guidelines for the placement in the public right of way or private property of utility poles, boxes, cabinets, vaults and related facilities.
- B. Establishing guidelines for the visual appearance of utility poles, boxes, cabinets, vaults and related facilities in order to insure that their appearance will not adversely impact the aesthetic quality of City neighborhoods.
- C. Establishing guidelines to ensure compliance with disability access laws and safe passage of pedestrian and vehicular traffic.
- D. Establishing guidelines to ensure the public is notified of proposed utilities on

or adjacent to their property.

12.12.220 Permits and approvals.

No person shall install any utility pole, cabinet, vault or box or related facilities in any street without first obtaining an encroachment permit from the City; pay any fees and post any security required by the City; and in the course of constructing, installing, replacing, maintaining or repairing any utility pole, box, vault, cabinet or related facilities, comply with all applicable requirements of the City and any terms or conditions of encroachment permits, licenses, authorizations or approvals.

For large scale or long term projects, the director shall be authorized to establish special fees and payment plans to defray the costs incurred by the Department of Transportation to supervise and regulate the installation of utility boxes and utility cabinets within the streets of the City. The director is authorized to approve reasonable schedules for installation of utility boxes and utility cabinets within the City streets for the purpose of promoting safety, reducing inconvenience to the public, and insuring adequate restoration and repair of the streets. A person and its officers, agents, contractors and subcontractors shall comply with any and all such schedules.

12.12.230 Use of streets—Interference, Appearance, and Accessibility.

Each utility pole, box, vault, cabinet and related facilities, shall be located, installed and maintained so that none of the facilities: endanger the lives or safety of persons; interfere or damage public improvements; unnecessarily hinder or obstruct the free use of public rights of way or other public property; or cause any interference with the rights and reasonable convenience of property owners who adjoin any of the streets or other public property where the utility pole, box or cabinet is located.

The following standards shall constitute minimum standards for the location and appearance of above ground utility poles, boxes, vaults, cabinets and related facilities unless otherwise approved by the director.

A. Interference

1. Utility cabinets shall not be placed at locations where the City Traffic Engineer determines based on engineering standards, that such placement would create a hazard. These locations include driveways, intersections, and road tapers where stopping sight distance is required.
2. Utility cabinets shall not be placed in planter strips between the sidewalk and the curb.
3. Utility boxes and cabinets shall be placed at property lines whenever possible.
4. Utility vaults installed for private development should be installed on private property to avoid diminishing planter or mow strips.
5. To the extent practicable and reasonable, each company shall accommodate the desires of any property owner respecting location within easements or rights-of-way traversing private land of the property owner.

B. Appearance

1. Utility cabinets shall be no higher than six feet unless otherwise approved by the director.
2. No exposed conduit or raceways will be permitted and all conductors, transformers, and other related equipment shall be concealed, except pole risers or drops.
3. Utility cabinets requiring power shall have the power pedestals attached to the utility cabinets.
4. No more than one utility cabinet per lot and adjacent sidewalk shall be allowed unless otherwise approved by the director.
5. Utility Boxes placed in sidewalks shall be centered in sidewalk flags.
6. Utility Vaults should be located behind the curb and not within the sidewalk whenever possible.
7. Colors shall be from earth tone ranges and utility cabinet coatings shall be graffiti resistant.

C. Accessibility

1. Utility poles and utility cabinets shall not be placed within the sidewalk or within any element of a pedestrian ramp and shall comply with disability access laws.
2. Utility poles shall be located behind sidewalks and out of pedestrian travel ways whenever possible.
3. All utility box grates and covers shall be non-slip, withstand heavy vehicular loading, and be adjustable to grade unless otherwise approved.
4. Utility Box ventilation grates shall be of a non-slip, heel-safe design, and shall not be located in high volume pedestrian areas whenever possible.

12.12.240 Restoration of Public right of way.

Any disturbance by a person of pavement, sidewalk, driveways, landscaping, striping or other surfaces shall be restored, repaired or replaced to the condition existing prior to the disturbance as determined by the director.

Any disturbance of landscaping, fencing or other improvements upon private property, including private property traversed by easements or rights-of-way utilized by a person, shall, at the sole expense of the person, be promptly repaired, restored, or replaced to the reasonable satisfaction of the property owner as soon as possible.

Each person shall, through authorized representatives, make a reasonable attempt to personally contact the owners or occupants of private property in advance of entering such property for the purpose of commencing any installation of facilities within easements or rights-of-way traversing such property.

12.12.250 Erection of poles or structures for overhead cables, wires or lines.

Except as otherwise permitted by law, franchise or elsewhere in this Code, no company shall be authorized to construct or install new poles or new wire-holding structures for commercial uses on or within public rights of way or City owned property for the purpose of placing overhead cables, wires, lines or other facilities unless approved by the Director.

12.12.260 Undergrounding.

Except as otherwise permitted by law, franchise or elsewhere in this Code, in all areas of the City where the cables, wires and other similar facilities of a utility company are placed underground, each utility company shall construct and install its cables, wires and other facilities underground. Utility cabinets may be placed above ground if existing technology reasonably requires, but shall be of such size and design and shall be so located as not to be unsightly or unsafe as determined by the director.

In any area of the City where there are certain cables, wires and similar facilities of a utility company underground and at least one operable cable, wire or like facility of a utility company suspended above ground from poles, a utility company may construct and install its cables, wires and other facilities from the same poles.

With respect to any cables, wires and similar facilities constructed and installed by a utility company above ground, the company shall, at its sole expense, reconstruct and re-install such cables, wires or other facilities underground pursuant to any project under which the cables, wires or other like facilities of such utilities are placed underground within an area. The duty of a utility company to underground shall arise if all existing above ground like facilities of such utilities are required to be placed underground.

12.12.270 Removal following termination or dissolution of permittee.

Upon dissolution or termination of a permittee, the permittee, at its sole expense, shall, unless relieved of the obligation by the City, remove from the streets all aboveground facilities, and properly abandon underground facilities as determined by the City, including, but not limited to utility poles, boxes, vaults, cabinets, cables attached to or suspended from poles, which are not purchased by another company and any related facilities.

12.12.280 Acquisition by successor permittee

Any person acquiring the assets or facilities of a dissolved or terminated permittee, shall apply for and obtain such encroachment permits, licenses, authorizations or other approvals and pay such fees and deposit such security as required by the City, shall conduct and complete the work of removal in compliance with all such requirements, and shall restore the streets to the same condition they were in before the work of removal commenced. The work of removal shall be completed not later than one year following the date of termination or dissolution of the prior permittee.

12.12.290 Maintenance and repair.

The permittee shall maintain their above ground utilities and utility cabinets in good condition and repair.

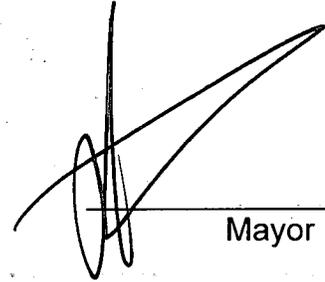
Adopted by the City of Sacramento City Council on April 30, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:


Shirley Concolino, City Clerk

Passed for Publication: April 21, 2009

Published: April 24, 2009

Effective: May 22, 2009