

**ORDINANCE NO. 2015-24**

**AN ORDINANCE ESTABLISHING SECTIONS 152-70 TO 152-102 OF THE CITY CODE OF ORDINANCES TITLED RIGHT OF WAY MANAGEMENT TO ESTABLISH STANDARDS FOR CONTRACTORS TO REPAIR CITY STREETS AND SIDEWALKS; SETTING A PENALTY, AN EFFECTIVE DATE AND A SERVABILITY CLAUSE**

**WHEREAS**, City Council finds that it is necessary to establish standards for contractors to repair city streets and sidewalks when disturbing the city's right-of-ways due to construction projects; and

**WHEREAS**, the proposed regulations will require contractors to obtain permits from the City prior to right-of-way construction and street/sidewalk closures and to protect the structural integrity of city streets, based on the Pavement Condition Index (PCI) that the city will be establishing within the next 45-days; and

**WHEREAS**, the ordinance also provides to what extent the right-of-way needs to be repaired which will be determined once the PCI report is received; and

**WHEREAS**, after consideration during the public meeting on this day and after due consideration, City Council finds it necessary to establish and implement Right of Way Management regulation to protect the health, safety and welfare of the community.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCONES HEIGHTS, TEXAS.**

**SECTION 1.** That Chapter 152, "RIGHT-OF-WAY MANAGEMENT" be added to incorporate new Sections composed of Sections 152.70 to 152.102 to read as follows:

**Chapter 152 - SUBDIVISION AND PUBLIC WORKS IMPROVEMENTS**

**RIGHT-OF-WAY MANAGEMENT**

**§152.70 Administration.**

The provisions of this Section shall be administered by the Director of Community Development ("Director"), or the Directors' authorized designee.

**§152.71 Authorized hours of right-of-way construction.**

Work activity governed by this article is restricted to the hours of 7:00 a.m. to 8:00 a.m. for work preparation activities, 8:00 a.m. to 5:00 p.m. for actual work activities and 5:00 p.m. to 6:00 p.m. for work cleanup activities and vacation of the site, Monday through Friday, except for city holidays.

The Director or their designee is authorized to permit work activity for extended hours and on weekends and holidays for work that cannot be performed during the allowed hours and days of construction due to unusual circumstances that might be detrimental to the property, or for work that would, if delayed, be or create a hazard to public health and safety

**§152.72 Notice of violation.**

The Director may give notice to any person who violates this article, and such person who receives such notice shall correct all violations alleged in the notice. Failure to correct any such alleged violations shall cause the person to be subject to penalties provided in §152.102.

**§152.73 Revocation, suspension or denial of permit.**

Notwithstanding other sanctions set forth in this article, if any of the provisions of this article are not complied with, a permit may be revoked or suspended by the Director. If a person has not followed the terms, conditions or specifications of this article in work done pursuant to a prior permit, new permits may be denied or additional requirements may be imposed.

**§152.74 Non-transferability of permits.**

No permit issued under this article shall not be transferable from the person or entity receiving the permit to another person or entity without the written approval of the Director as permitted by state law.

**§152.75 Effect on city's liability.**

No permit or certificate of inspection shall be conclusive as against the city that the work therein referred to has been installed in conformity with the requirements; but the owner of the premises, the contractor and all other persons concerned shall be obligated to see that all matters, things and acts to which this article and such permit or certificate relate shall conform to the regulations of the city. All work installed in this city for any purpose whatever shall be kept in full compliance with this article.

**§152.76 Preserving other ordinances not in conflict.**

The provisions of this article shall take precedence over those of any other existing ordinance of the City of Balcones Heights which may contain provisions that are less restrictive than those specified in this article. However, nothing contained in this article shall mitigate, interfere with, alter or repeal any provisions of any other ordinance of the City of Balcones Heights not in conflict with the provisions of this article.

**§152.77 Validity.**

If any section, paragraph, subdivision, clause, phrase or provision of this article shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this article as a whole or any other provision thereof other than the part so decided to be invalid or unconstitutional.

**§152.78 Right-of-way construction.**

No person shall commence or continue with the construction of facilities above, upon, or beneath right-of-way in the city except as provided by this article and pursuant to the directives of the Director issued pursuant to this article.

**§152.79 Adoption of City of San Antonio Utility Excavation Criteria Manual (UECM).**

The City of Balcones Heights hereby adopts by reference the most current Utility Excavation Criteria Manual (UECM), as amended, which is utilized by the City of San Antonio as general requirements and procedures for excavation in public right-of-way and shall be referred to herein as "city construction standards".

**§152.80 Right-of-way permits.**

- (a) No person or entity shall perform any construction of facilities in the right-of-way without first obtaining a right-of-way permit, except as otherwise provided by this article. The permit shall be in the name of the person who owns or will subsequently own the facilities to be constructed. The permit application shall be completed and signed by the person as permittee.
- (b) Construction considered an emergency relating to existing facilities may be undertaken without first obtaining a permit from the city. However, a contractor shall notify the Director's office as promptly as possible after beginning the emergency construction, but in any event no later than the next city-business day, of any emergency construction, and shall also provide within two (2) business days a reasonably detailed description of the construction performed in the right-of-way, and shall further provide within ninety (90) days from the date any facilities are reconstructed or relocated an updated map of any facilities that were affected by such emergency construction.
- (c) A permittee shall provide the Director the following information prior to the permit being issued, and such information shall be incorporated by reference into the permit:
  - (1) To whom the permit is issued;
  - (2) A description of the location of construction and facilities;
  - (3) A description of the route of all facilities to be constructed on or about the designated right-of-way;
  - (4) Location of all right-of-way easements which the permittee plans to use;
  - (5) Location of existing city and third-party facilities as required by §152.89 (location and placement);
  - (6) Description of plans, which may be submitted as a form statement, to restore existing facilities pursuant to this article, and other right-of-way construction, and such plans shall comply with the standard construction guidelines of the city, including the city construction standards;
  - (7) Drawings of any bores, trenches, hand holes, manholes, switch gear, transformers, pedestals, poles, and the such-like, including any applicable depths and heights;
  - (8) Typical of manholes and hand holes that the permittee plans to use or access;

- (9) The construction methods and materials to be employed by the permittee for the protection of existing facilities within, above, beneath, or adjacent to the right-of-way, all of which methods and materials are subject to approval by the Director;
  - (10) Estimated dates and times that construction is scheduled to be performed;
  - (11) The base material to be used pursuant to §152.87 (base material) of this article;
  - (12) Restoration of property pursuant to §152.98 (restoration of property) of this article;
  - (13) Three (3) sets of construction plans which shall be on a scale not to exceed one inch equalling one hundred (100) feet unless otherwise approved by the Director, and the plans shall include the dimensions from the proposed facility to permanent reference points;
  - (14) Detailed description of what the permittee proposes to construct, including but not limited to, if applicable, pipe sizes, the number of interducts, and valves;
  - (15) A complete legend of drawings submitted by the permittee, which may be provided by reference to previously submitted documents, but if symbols are used, the permittee shall provide the city with an accurate guide to the meaning of any symbols used;
  - (16) A written statement that proof of insurance, bond, or other financial information required under this article is current and on file with the city; and,
  - (17) A traffic control plan acceptable to the Director.
- (d) All construction in the right-of-way shall be in accordance with the right-of-way permit for the facilities. The Director shall be provided access to the right-of-way construction and to such further information as the Director may reasonably require in order to ensure compliance with the permit or this article.
  - (e) A copy of the right-of-way permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the Director at all times when construction is occurring.
  - (f) All construction authorized by permit shall be completed in the time specified in the right-of-way permit. If the construction cannot be completed in the specified time period, a contractor may request an extension of time from the Director. A contractor may continue work that has been approved by the permit during the time the request for an extension is pending, so long as the request is made prior to the expiration of the permit.
  - (g) A copy of any permit or approval issued by federal or state authorities for work in federal or state right-of-way located in the city shall be provided by the contractor to the Director upon request.
  - (h) A request for a right-of-way permit shall be submitted at least fifteen (15) city-business days before the commencement of the proposed construction unless:
    - (1) The construction is for primary service and state law or federal law requires construction time be less than fifteen (15) city-business days; or
    - (2) The Director agrees to a request by the contractor for a modified submission date.

- (i) Requests for right-of-way permits shall be promptly processed and approved or disapproved by the Director but in any event no later than ten (10) city-business days after receiving all the permit information required under this article, except that, if subsection (h)(1) of this subsection shall apply, a right-of-way permit shall be processed as soon as reasonably practical.
- (j) The Director may require a pre-construction meeting with the permittee and/or the contractor.

**§152.81 Sidewalk and lane closure permit.**

- (a) When work on a sidewalk or lane of a thoroughfare, including an alleyway used by traffic, requires closure, the contractor shall obtain a closure permit from the Director.
- (b) The applicant shall be responsible for compliance with TXDOT rules concerning markings, flagmen, barricades and barriers, steel plate covers, whether the closure occurs on a state route or a city thoroughfare.
- (c) The application for a closure permit shall include point of contact, date and time information regarding the closure.
- (d) Application fees for closure permits shall be:
  - (1) Sidewalks: One hundred dollars (\$100.00) per day of closure.
  - (2) Residential thoroughfares: One hundred fifty dollars (\$150.00) per day of closure.
  - (3) Primary streets (Hillcrest, Babcock, Crossroads N., Crossroads Blvd., Balcones N. & Balcones Heights Rd.): Two hundred fifty dollars (\$250.00) per day of closure.
- (e) In addition to the permit fees, the following fees shall be charged:
  - (1) \$0.0525 per square foot per day to close or block any sidewalk in the city, with a minimum charge of five dollars (\$5.00) per day (2) \$0.1050 per square foot per day to close a lane or portion of any street or alley in the city, with a minimum charge of ten dollars (\$10.00) per day for a residential street or alley or for a commercial alley, and with a minimum charge of twenty dollars (\$20.00) per day for . Hillcrest, Babcock, Crossroads N., Crossroads Blvd., Balcones N. & Balcones Heights Rd.

**§152.82 Required inspections.**

- (a) Required inspections to verify full compliance with the right-of-way permit and all applicable codes and ordinances include, but are not limited to, the following:
  - (1) Upon installation of equipment (prior to backfill);
  - (2) Backfill (prior to surface patch);
  - (3) Final.
- (b) The fact that an inspection has been performed does not relieve, excuse, or otherwise alleviate or minimize a contractor's obligations of otherwise complying with this article or from complying with other obligations or specifications legally imposed on a contractor.

**§152.83 Inspection fees.**

- (a) Permit fees include the cost for the initial inspection of completed work. When the work has been reported to the city inspector as completed and ready for inspection, and when upon such inspection the work is found to be incomplete or defective, an additional non-refundable fee of seventy-five dollars (\$75.00) shall be paid at the time of the next request for inspection. After the second failed inspection, the inspection fee for each subsequent request for inspection shall be double the previous fee.
- (b) If the inspection requires the use of outside consultants, the non-refundable fee is the actual cost paid by the city plus a three (3) percent administrative fee.
- (c) Unless waived by the Director, inspections shall not be conducted until any and all outstanding fees owed to the city are paid in full.

**§152.84 Right-of-way permit and fee exemptions.**

The Director shall have the authority to waive fees provided for in this article for public agencies, licensees, franchisees, certificated telecommunications providers and contractors providing the city with construction or other permitted services. When deemed appropriate, the Director shall also have the authority to waive the requirement for a contractor to acquire a right-of-way permit.

**§152.85 Failure to obtain necessary inspections.**

In the event a permit holder fails to obtain all necessary inspections, and to pass all said inspections, they shall be in violation of this article. Violation of this article may be addressed by any combination of the following options:

- (1) Refusal of the Director to issue future permits to the violator until the inspections are successfully obtained; and/or
- (2) Such actions as are permitted under the provisions of section 152.101 and section 151.102 of this Code; and
- (3) Other such appropriate procedures and measures as might be in place in this Code at the time of the violation(s).

**§152.86 Construction procedures.**

- (a) A contractor shall notify the Director not less than twenty-four (24) hours in advance that construction is ready to proceed and provide the name, address, and phone number of the contractor or subcontractor(s) who will perform the actual construction, including the name and telephone number of an individual designated by the contractor or subcontractor(s) who will be available for contact by the city at all times during construction.
- (b) A contractor shall notify adjoining property owners not less than twenty-four (24) hours in advance of any construction unless such construction constitutes an emergency as defined and applied herein.
- (c) Construction shall be in compliance with all applicable city codes, local, state and federal laws, and the city construction standards.
- (d) A contractor shall place at the location where construction is to occur, at least twenty-four (24) hours prior to the beginning of construction, information signs measuring three (3) feet

by three (3) feet, stating the identity and telephone number of the person doing the construction in the right-of-way, and the identity and telephone number of the contractor, and said information signs shall remain posted at the location during the entire time the construction is occurring. If the construction is due to an emergency as defined elsewhere in this article, the twenty-four-hour advanced placement is not required.

- (e) The size and nature of facilities, to be in the right-of-way, including their location, depth, height, upgrades, and other particulars, shall be subject to the approval of the Director unless such approval conflicts with state or federal law.

**§152.87 Base material.**

Base material shall be constructed as designated on the right-of-way permit and as required pursuant to the city construction standards. A contractor shall notify the Director not less than two (2) hours prior to the placement of base material. Failure to do so may result in the suspension of construction and the removal of any base material placed without prior approval.

**§152.88 Disturbance of facilities.**

- (a) A contractor's facilities shall not be allowed to disturb city facilities, in particular gravity-dependent facilities.
- (b) The Director may direct a contractor to keep a reasonable distance from facilities which are city-owned or leased. Facilities constructed shall be presumed to disturb facilities which are city-owned or leased if the existing facility, or the facility to be constructed, is within three (3) feet horizontally of such city-owned or leased facility. Nothing in this section shall diminish the authority of the Director to require specific placement of particular facilities.

**§152.89 Location and placement.**

- (a) Prior to commencing excavation or boring, unless otherwise excepted by this article, a contractor shall verify the horizontal and vertical location of existing city and third-party facilities within three (3) feet of the contractor's proposed construction. Prior to commencing excavation or boring, unless otherwise excepted by this article, a contractor shall verify only the horizontal location for facilities outside three (3) feet of the contractor's proposed construction and which may be reasonably anticipated to be disturbed by the contractor's proposed construction.
- (b) Any facility constructed by a contractor shall maintain a minimum of six (6) inches vertical separation when crossing any existing facility.
- (c) Facilities constructed by the contractor shall be constructed at a minimum depth of twenty-four (24) inches, except the Director may require a lesser or greater depth if it is deemed necessary for the health, safety, or general welfare of the public.
- (d) All bores shall be a minimum of twenty-four (24) inches below the street gutter or edge of pavement.
- (e) All directional boring shall have a locator place bore marks and depths while the bore is in operation. Locator shall place a mark at each stem with a paint dot and shall mark the depth at least at every other stem.

- (f) Placement of all appurtenances shall be approved by the Director prior to placement.

**§152.90 Conformance with public improvements.**

- (a) For the purpose of conforming underground or overhead facilities for public improvements, and as allowed by, or consistent with, state or federal laws governing such conformance, and if it shall be deemed necessary by the Director to undertake such conformance, such conformance shall be accomplished by contractor, at the contractor's expense and direction, within ninety (90) days from receipt of notice from the city to contractor unless a longer time schedule has been approved by the Director. The Director will consider all reasonable and economical public improvement alternatives prior to requiring conformance. Contractor may notify the Director of options other than conformance.
- (b) Facilities that do not conform after ninety (90) days to the stated purposes set forth in the permit or within an extended schedule approved by the Director, are subject to removal from the right-of-way by the city. If removal occurs, city shall not be liable for damages or other compensation to contractor, but the city shall be responsible for reasonable care of such removed facilities while such facilities are in city custody and until contractor takes possession of such removed facilities. The city shall bear no responsibility for removed facilities not repossessed by contractor within thirty (30) days after the city has taken custody of removed facilities.
- (c) Whenever it shall be necessary to require contractor to conform its facilities within the right-of-way, such conformance shall be made without claim for reimbursement or damages against the city. It is understood and further provided, however, that the city shall not require contractor to remove its facilities entirely from the right-of-way. If the city requires contractor to conform its facilities to enable any entity or person other than the city to use, or to use with greater convenience, right-of-way, contractor shall not be required to conform its facilities until such other entity or person shall reimburse or make arrangements satisfactory to contractor to reimburse contractor for any loss and expense caused by or arising out of such conformance.

**§152.91 Erosion control.**

- (a) Erosion control measures, including but not limited to, backfill, silt fencing, advance warning signs, markers, cones, and barricades shall be in their proper locations before construction begins in the right-of-way. The contractor shall be responsible for storm water management erosion control that complies with city, state, and federal guidelines. Requirements may include, but not be limited to, silt fencing in erosion areas until reasonable vegetation is established and wire-backed silt fencing around high erosion areas.
- (b) A contractor may be required to show proof of plans approved by the Texas Commission on Environmental Quality and Environmental Protection Agency relating to storm water and erosion, when applicable, or in the alternative, written documentation verifying that contractor is not required to obtain such plans.

**§152.92 Traffic control.**

Unless an emergency exists, as that term is defined herein, traffic lane closures in the right-of-way which obstruct the flow of traffic for longer than four (4) hours at a time may be allowed

only under the direction and permission of the Director and in accordance with the Texas Manual on Uniform Traffic Control Devices (MUTCD) and other applicable local, state or federal law, except that the flow of traffic on collectors or arterials cannot be obstructed for any period of time except under the direction and permission of the Director and in accordance with the Texas Manual on Uniform Traffic Control Devices (MUTCD) and other applicable local, state or federal law.

**§152.93 Street and sidewalk cuts.**

- (a) Except in the event of an emergency, when a street or sidewalk cut is required, prior written approval must be obtained from the Director, and all requirements of this article and other applicable ordinances must be followed.
- (b) Prior to excavation of a street or sidewalk, a contractor shall be in compliance with all local, state, and federal laws, if applicable, including the Texas Underground Facility Damage Prevention and Safety Act, Chapter 251, Texas Utilities Code.
- (c) All trenches in asphalt or concrete-surfaced areas shall have a clean, straight cut through the pavement surface prior to removal of the surface, in accordance with city specifications, including the city construction standards. Any cuts in sidewalks, including those cuts required in the event of an emergency, shall be made at existing control joints.
- (d) Except in the event of an emergency, a contractor shall notify the Director not less than two (2) hours prior to commencing a street or sidewalk cut.
- (e) A contractor shall comply with proper traffic control during a street or sidewalk cut. Traffic control shall be in conformance with the MUTCD and other applicable local, state, and federal law.
- (f) A contractor shall be responsible for obtaining line locates from all affected facilities prior to executing any street or sidewalk cut.

**§152.94 Backfill.**

- (a) Backfill shall be constructed pursuant to the city construction standards. A contractor shall notify the Director at least two (2) hours prior to beginning backfill operations. Failure to so notify may result in suspension of construction and removal of any unauthorized installed backfill.
- (b) Densities may be taken to ensure compliance with standard backfill requirements. At least five (5) days prior to the commencement of the backfill operations, a contractor shall submit to the Director a sample of the backfill material to be used by the contractor at the construction site.
- (c) In excavations eighteen (18) inches or less in width, or where for any reason compaction cannot be achieved with gravel backfill, flowable concrete shall be used in place of gravel backfill in all areas within three (3) feet of the back of the curb or the edge of pavement. Flowable fill shall conform to the city construction standards.

**§152.95 Substandard construction.**

- (a) Any person or entity performing construction in city right-of-way shall perform such construction in a manner that complies with this article, other applicable local, state, and federal laws, and the city construction standards.
- (b) Facilities installed after the effective date of this article shall be presumed to be improperly constructed and substandard if:
  - (1) The construction endangers, or is reasonably likely to endanger, the general public or persons using the constructed right-of-way;
  - (2) The facilities do not meet applicable city codes, state or federal law, or the city construction standards;
  - (3) The facilities are not capable of being reasonably located pursuant to the city construction standards, or as otherwise required by this article;
  - (4) The facilities are not located in the proper place in accordance with this article, the directives provided by the Director pursuant to this article, or the city construction standards;
  - (5) The facilities are placed in an area that disturbs facilities which are city-owned or leased; or,
  - (6) Facilities constructed or to be constructed are within three (3) feet horizontally of such city-owned or leased facility.
  - (7) Substandard construction is unacceptable to the city under this article and may be ameliorated by the city or by a third party at the direction of the city, and the contractor shall be liable for the costs of such amelioration. Before amelioration is undertaken by the city or by a third party at the direction of the city, the contractor shall be provided notice and allowed ten (10) days, or a longer period of time if requested by the contractor and granted by the Director, to bring the construction up to applicable standards acceptable to the city.

**§152.96 Insurance requirements.**

Any contractor requesting shall carry, and provide documentation upon request, the following:

- (1) Worker's compensation insurance covering all employees of contractor engaged in any operation covered by the permit;
- (2) Automobile liability insurance;
- (3) General liability insurance of at least five hundred thousand dollars (\$500,000.00) for personal injury and one hundred thousand dollars (\$100,000.00) for property damage; and
- (4) Umbrella coverage of at least one million dollars (\$1,000,000.00) on an occurrence basis and must include coverage for personal injury or death, contractual liability, premises liability, medical damages, and explosion and collapse hazards.

**§152.97 Liability for damage.**

- (a) Without intending to affect or determine the legal relationship between a contractor and any third party, the permittee and the contractor shall be liable for any property damage or destruction caused by the contractor, or by any contractor or subcontractor of the contractor, as a result of the contractor or any contractor or subcontractor of the contractor constructing in the right-of-way. A designated agent or representative of the permittee and contractor shall be available to the Director for contact purposes in the event of damage or destruction.
- (b) A contractor shall notify the Director upon occurrence of any damage or destruction to any facility or other property owned or leased by a third party or by the city, in connection with construction occurring in the right-of-way, if such occurrence happens during a city business day. If the occurrence happens on a day other than a city business day, notification must be given by 9:00 a.m. on the first city business day following the occurrence.

**§152.98 Restoration of property and pavement.**

- (a) Surface restoration shall be constructed as designated on the right-of-way permit and as required pursuant to the city construction standards. A contractor shall notify the Director not less than two (2) hours prior to the placement of surface restoration material. Failure to do so may result in the suspension of construction and the removal of any surface material placed without prior approval.
- (b) A contractor shall be responsible for having all abandoned facilities removed within seven (7) calendar days after their abandonment unless otherwise extended by the Director or unless the Director determines that such abandoned facilities should not be removed upon request.
- (c) During a cessation in the construction or after completion of the construction, and in order to avoid safety hazards to vehicles and pedestrian traffic, all street and sidewalk construction shall be restored by a contractor within a reasonable period of time to be determined by the Director.
- (d) A contractor shall restore property damaged or destroyed by construction on or adjacent to the right-of-way to a condition that is as good as or better than the pre-existing condition of the right-of-way or adjacent property, as determined by the Director. Streets shall be restored based on their Pavement Condition Index (PCI) prior to construction, as determined by the Director during the application process, as follows:
  - (1) PCI of 0—55. Excavations in streets and/or rights of way with PCI values of 50 or less shall be deemed to be excavations in streets with nominal loss of life. The contractor shall promptly repair the trench envelope and surface in accordance with specifications set forth in the UECM.
  - (2) PCI of 56—85. In the event of an excavation in a street or right-of-way having a PCI of 56—85, the contractor shall promptly repair the trench envelope and surface, including pavement and foundation, to the same condition, or better, than existed before the commencement of the work in accordance with the specifications set forth in the UECM. In the event of failure of the repair during the guaranty period, the contractor shall reimburse the city for its pavement restoration cost.

- (3) PCI of 86—100. Excavations in streets and/or right-of-way with PCI values of 86 or greater shall be deemed one hundred (100) percent loss of pavement life. These excavations require block to block and curb to curb pavement reconstruction. Use of a hot mix asphalt repaving process is an option with approval of the Director. In the event of any trench failure in the street or right-of-way during the guaranty period, the contractor shall reimburse the city for its costs to repair the failure. Additionally, in the event of such failure, the contractor shall within forty-eight (48) hours repair the subject trench envelope if required by the Director.
- (e) Restoration shall be completed in a timely manner as specified by schedules prepared and provided by the Director. Contractors of the right-of-way shall be fully responsible for the performance of all trenches or other restorative work for a period not to exceed twenty-four (24) months from the completion of the work and/or inspection by the Director. Any trench or other restorative failures resulting from any work authorized by this article shall be immediately repaired upon notification by the city and are subject to inspection and approval by the city.
- (f) All repairs to right-of-way of any PCI are guaranteed by the contractor making the repair and the permittee causing the repair to be made for the life of the street. The life of the street for these purposes is defined to be until such time as that certain street or right-of-way is repaved by the city or another, in the same location as the excavation, or until such time as the PCI Index of such street or right-of-way drops to below 55.

**§152.99 Requirement to relocate equipment for city public works projects.**

Any user of the city right-of-way shall be required to relocate and bear the cost of relocating their equipment to accommodate city public works projects. Such relocation shall be completed within thirty (30) days upon notice by the city of the requirement for such relocation.

**§152.100 Exemptions for maintenance of sewer laterals by single family residents.**

Residential customers issued permits to excavate in the right-of-way for the maintenance of sewer laterals for single family or duplex residential properties shall not be subject to any fees required by this chapter and shall only be required to restore a street or right-of-way to a maximum PCI value of 85, even if the PCI value is determined to be higher than 85.

**§152.101 Injunctive relief and other remedies for violation.**

Any person or entity who shall fail to comply with any of these regulations, or who shall commit any of the acts described by this article, or be guilty of any of the omissions thereof, shall be liable to injunctive action prohibiting the violation of this article and shall be subject to being mandatorily enjoined to restore any right-of-way illegally excavated to its original form and function, and shall be liable and responsible for any and all expenses that may be incurred by the city in connection with any such action, omission or other violation, including reasonable attorneys' fees.

**§152.102 Penalties.**

Each violation of this ordinance shall be punishable by a fine not to exceed \$500. Each day during which a violation continues shall be deemed a separate violation.

Any person or entity who shall fail to comply with any provision of these regulations, or who shall construct, alter, repair, excavate or demolish in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall be guilty of a misdemeanor, and upon conviction shall be punished in accordance with this Section.

**SECTION 2. REPEALED.** All ordinances, resolutions, and municipal orders in conflict herewith are repealed to the extent of such conflict.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void; and that in lieu of each clause or provision of this Ordinance that is invalid, illegal, or unenforceable there be added by the Mayor as necessary with the approval of the City Attorney as to form, and as a part of the Ordinance a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

**SECTION 4, EFFECTIVE DATE.** Effective immediately following the publication of this ordinance in the local newspaper as required by Section 51.052 of the Texas Local Government Code, the following sections will apply within the corporate city limits of Balcones Heights, Texas.

**PASSED, ORDERED AND APPROVED THIS 21<sup>st</sup> DAY OF DECEMBER, 2015.**



Suzanne de Leon  
Mayor

**ATTEST:**



Delia Flores, TRMC  
City Secretary

