

CHAPTER 6: BUILDING AND CONSTRUCTION PERMITS

Division 6.1: General Provisions

(Amended October 29, 2019)

Sec. 6.100 Purpose

Subject to exemptions as provided in this Chapter, this Chapter requires the issuance of a building permit by the Building Official before the commencement of development within the City of Sunset Valley.

Sec. 6.101 Building and Demolition Permits - Required; Application

Subject to exemptions from the requirement of a permit as provided in this Chapter, no person shall engage in development of real property, including the erection, construction, enlargement, alteration, repair, movement, removal, conversion or demolition of any building, structure or improvement in the City, or cause same to be done without first obtaining a separate permit for each building, structure or other improvement. For purposes of this Chapter, only one building permit need be obtained for one building and parking lot(s) and driveways serving such building.

Sec. 6.102 Permit Application

(a) To obtain a building permit the applicant shall first file an application, in writing, on a form promulgated by the city. An application shall:

- (1) Identify and describe the work to be covered by the permit;
- (2) Describe the land on which the proposed work is to be performed by plat reference, if then platted, or by surveyed tract and street address, or, as necessary, any similar description that is reasonably acceptable to the Building Official which will adequately identify and definitely locate the proposed site;
- (3) State the proposed use and occupancy of all parts of any building(s);
- (4) Present plans and specifications for all new or modified improvements as specified by application requirements
- (5) Indicate the location of all driveways or access points from the proposed building site to any public street, road or alley;
- (6) Be signed by the permittee, or an authorized agent, who may be required to submit evidence to indicate such authority;
- (7) Give such other information as reasonably may be required for review for compliance with this Chapter as determined by the Building Official.

(b) Plans and specifications shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this Chapter and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the building, street address and/or metes and bounds of the work and the name and address of the owner of the property and person(s) who prepared the plans and specifications. Plans shall include a plot plan showing the location of any proposed building or location of construction activity, including all structures, parking lots, driveways and any other improvements, and of every existing building or construction on the property.

(c) Computations, stress diagrams and other supporting data sufficient to show the correctness of the plans, shall be submitted when required by the Building Official.

(d) Demolition Application. To obtain a demolition permit the applicant shall file an application, in writing, on a City approved demolition permit application. Every such application shall:

- (1) For structures in a district zoned other than residential and formerly used for a purpose other than residential, provide an asbestos survey of any structure or part thereof proposed to be demolished;
- (2) Provide a site plan showing the location of the structure to be demolished and the location and size of structures and construction that are to remain on the site or plot.
- (3) Identify the extent of the demolition of the building;
- (4) Indicate the purpose for the proposed demolition;
- (5) Provide a written approval from the building owner, if different from the applicant;
- (6) Provide pictures of the building elevations in its current state, if more than 50% of the building is to be removed;
- (7) Prior to approval, provide a tax certificate showing no delinquent taxes if more than 75% of the building is to be removed.

Sec. 6.103 Permit Issuance

- (a) The application, plans and specifications filed by an applicant for a building or demolition permit shall be reviewed by the Building Official. Such plans may be reviewed by other departments of the City to check compliance with the laws and ordinances under their jurisdiction. If the Building Official is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this Chapter and other applicable laws and ordinances, the Building Official shall issue a permit to the applicant. The Building Official shall approve or disapprove an application for permit on or before forty-five (45) days after administratively complete application, plans and specifications are submitted to the city. (See Division 1.6 of this Code for regulations pertaining to application submissions).
- (b) When the Building Official issues the permit, the Building Official shall endorse plans and specifications, in writing or stamp, "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the Building Official and all work shall be done in accordance with the approved plans. The Building Official shall have the right to arrange for the inspection of all buildings or structures being erected or altered as frequently as may be necessary to ensure compliance with this Code and other city ordinances.
- (c) The Building Official may issue a permit for the construction of a part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved; provided that adequate information and detailed statements have been submitted that comply with all pertinent requirements of this Chapter, and any such partial construction would, by itself, be in compliance with this Chapter and other applicable laws. Any such permit for a part of a bigger development shall not constitute an approval of or a permit for any construction or development that is not expressly approved in the issued permit.

Sec. 6.104 Construction Permits in Newly Annexed Areas Which Have Temporary Zoning

- (a) No building or structure within any territory annexed to the City shall be altered, remodeled or constructed without a permit as required by this section.
- (b) No permit for the alteration, remodeling, ~~or~~ construction, or demolition of a building or structure on which work has not commenced on the date of annexation shall be issued by the City on a lot or tract which has temporary zoning other than a permit which will allow the construction of a building permitted to be constructed in a "SF" (Single Family Residential) Zoning District.
- (c) The owner, and any other person constructing or altering any building or structure at the time of annexation of the property shall, before proceeding any further with such construction, or alteration, apply for a permit authorizing further work on said building or structure. The application for the building permit shall be accompanied by the applicable fees.

Sec. 6.105 Exemptions

The following are exempt from the requirement of a building permit pursuant to this Chapter 6 (but must comply with all other applicable requirements of this Code):

- (1) One-story detached accessory structures not greater than 120 square feet measured along exterior walls that are intended and used for storage and similar uses;
- (2) Fences not over seven (7) feet high that do not obstruct the flow of storm water;
- (3) Retaining walls not located in the Critical or Transitional Water Quality Zones, which are not over four (4) feet in height measured from the bottom of the footing to the top of the wall and are not greater than 75% of a single side of a single lot or separate tract in length and do not obstruct or alter the flow of storm water;
- (4) Rainwater harvesting systems whose sole purpose is for the collection, treatment, and/or storage of rainwater for on-site use that have the following features: No tank exceeds five thousand (5,000) gallon capacity; no tank is pressurized; and the area of all tanks collectively does not exceed three hundred and fifty (350) square feet;
- (5) Painting, papering, tiling, carpeting, installation of cabinets, counter tops, similar finish work, and minor repairs to existing structures;
- (6) Swings and other playground equipment that are not located within any easements or within a vegetative buffer and do not substantially obstruct the flow of water;
- (7) Prefabricated swimming pools that are unheated and are less than twenty-four (24) inches deep;
- (8) Decks not exceeding two hundred (200) square feet in area, that are no more than twenty-four (24) inches above grade at any point, are not attached to a dwelling and do not serve an exit door, are in compliance with setback requirements for structures and are not located in any easements;
- (9) Roof repair or replacement made with the same or similar materials to be repaired or replaced.

Sec. 6.106 Validity of Permits

- (a) The issuance or granting of a permit of approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Chapter.
- (b) The issuance of a building permit based upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in such plans and specifications or from preventing building operations being carried on thereunder when in violation of this Code or of any other applicable law.

Sec. 6.107 Expiration and Extension of Permit

Every permit issued pursuant to this Chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within ninety days from the date of such permit, or if the building, construction, or demolition authorized by such permit is suspended or abandoned for a period of thirty days at any time after the work is commenced. Before such work can be recommenced, a new permit shall be first obtained, and the fee for such permit shall be one-half the amount normally required for a new permit for such work; provided that no changes have been made or will be made in the original plans and specifications for such work; and that the suspension or abandonment has not exceeded 180 days.

Sec. 6.108 Suspension or Revocation

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Code.

Sec. 6.109 Stop Order

The Building Official shall have the power to order all work stopped on construction or alteration or repair or demolition of a building or structure in the City when such work is being done in violation of any provision of this Code or any ordinance relating thereto. A Stop Order shall be signed by the Building Official. A Stop Order shall be presented to and explained to the Job foreman or other responsible individual on the work site, provided that if at the time of delivery of the Stop Order by the Building Official, there is no job foreman or other responsible individual present at the work site, then the Stop Order shall be attached or affixed in a conspicuous place at the particular work area which is the subject of the Stop Order. Work shall not be resumed after the issuance of such an order except on the written permission of the Building Official, or upon decision of the Board of Adjustment upon an appeal of such Stop Order to the Board of Adjustment. The property owner or contractor shall have the right to appeal any Stop Order, or any other decision or ruling of the Building Official, to the Board of Adjustment which shall have the authority to overrule any Stop Order or other decision or ruling of the Building Official.

Sec. 6.110 Temporary and Permanent Certificate of Occupancy (Amended Jan. 21, 1997)

- (a) No person or persons shall use or occupy any building or structure for which a permit has been granted by the Building Official until a permanent Certificate of Occupancy has been issued. A permanent Certificate of Occupancy shall be on an official form as prescribed by the City and signed by the Building Official.
- (b) The Building Official may grant approval to use or occupy any building or structure under the issuance of a Temporary Certificate of Occupancy providing the Building Official finds that the building or structure meets all applicable regulations and that no substantial hazard shall result from occupying same. Such approval shall only be granted upon written permission of the Building Official based on the nature and circumstances surrounding request.
- (c) The granting of a certificate of temporary or permanent occupancy shall not be construed as a warranty or representation by the City that any building or structure is free from defects or dangerous conditions, and the City does not assume any liability or waive any immunity, on its own behalf or on behalf of any of its officials, employees, or agents, by issuing such a certificate.

Division 6.2: Fees

Sec. 6.200 Minimum Fees

A separate fee for each building or demolition permit application shall be paid with each application in accordance with a schedule of minimum fees set by City ordinance.

Sec. 6.201 Additional Fees

In addition to the minimum building permit fees, additional inspection fees may be required by the City.

Division 6.3: Building Official

Sec. 6.300 Building Official

The person or persons designated to serve the function of Building Official, with the assistance of the city engineer and such professional inspectors and reviewers as authorized from time to time by the City Council, shall review and act on all applications, perform such necessary inspections, and take appropriate enforcement actions as provided in this Chapter 6 and the Codes adopted pursuant to this Chapter 6.

Sec. 6.301 Duties

- (a) It shall be the duty of the Building Official to require compliance with all provisions of this Code relating to development of property and to arrange for inspection of all buildings or structures being erected or altered, as frequently as may be necessary to ensure compliance with this Code and other applicable law.
- (b) The Building Official shall review all applications for building and demolition permits for administrative completeness and compliance with applicable regulations and approve or disapprove same. The Building Official shall be responsible for designating qualified persons to perform inspections of the work. Inspections will be made on a reasonably prompt basis, within twenty-four (24) hours following a request therefore by the owner or contractor whenever practicable.

Division 6.400: Codes Regulating Construction

Sec. 6.401 International Building Code

(a) Adoption

The International Building Code, 2015 Edition, including Appendices, as published by the International Code Council, is hereby adopted, and designated as the Building Code of the City of Sunset Valley, and is made a part hereof, as amended by subsection (b) of this Section.

Unless deleted, amended, expanded, or otherwise changed herein, all provisions of such Code shall be fully applicable and binding. In the event a conflict is determined to exist between said International Building Code as adopted and the other provisions of the Land Development Code, the Land Development Code provisions will prevail.

(b) Amendments

The adoption by reference of the International Building Code as provided in section 6.401 of this Chapter is made subject to and modified by the addition of the following provisions:

- (1) The Board of Appeals shall be the Board of Adjustment of the City of Sunset Valley.

Sec. 6.402 International Residential Code for One and Two-Family Dwellings

(a) Adoption

The International Residential Code for One and Two-Family Dwellings, 2015 Edition, including Appendices, as published by the International Code Council, is hereby adopted, and designated as the Residential Building Code of the City of Sunset Valley, and is made a part hereof, as amended.

Unless deleted, amended, expanded, or otherwise changed herein, all provisions of such Code shall be fully applicable and binding. In the event a conflict is determined to exist between said International Residential Code for One and Two-Family Dwellings as adopted and the other provisions of the Land Development Code, the Land Development Code provisions will prevail.

(b) Amendments

The International Residential Code for One and Two-Family Dwellings is hereby modified as adopted by the addition of the following provisions:

(1) The Board of Appeals shall be the Board of Adjustment of the City of Sunset Valley;

(2) No permit shall be required for minor roof improvements or repair under 25% of the roof surface. Not more than twenty-five per cent of the roof covering of any building or structure can be replaced unless the entire roof covering is made to conform to the requirements of this Code for new buildings and structures.

New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

- Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
- Where the existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.
- Where the existing roof has two or more applications of any type of roof covering.
- Where the existing shingles have been moderately or severely damaged by hail.

(3) Section R105.2 Work exempt from permit is modified to add the following:

A one-story detached accessory structure that is no more than 120 square feet (11 m²) of floor area, does not create a dwelling, contains no plumbing, and is not located within a flood hazard area.

Sec. 6.403 International Mechanical Code

(a) Adoption

The International Mechanical Code, 2015 Edition, including Appendices, as published by the International Code Council, is hereby adopted, and designated as the Mechanical Code of the City of Sunset Valley, and is made a part hereof, as amended.

Unless deleted, amended, expanded, or otherwise changed herein, all provisions of such Code shall be fully applicable and binding. In the event a conflict is determined to exist between said International Mechanical Code as adopted and the other provisions of the Land Development Code, the International Mechanical Code provisions

will prevail.

(b) Amendments

The International Mechanical Code is hereby modified as adopted by the addition of the following provision:

- (1) The Board of Appeals shall be the Board of Adjustment of the City of Sunset Valley.

Sec. 6.404 Uniform Plumbing Code

(a) Adoption

The Uniform Plumbing Code, 2015 Edition, including Appendices, as published by the International Association of Plumbing and Mechanical Officials, is hereby adopted, and designated as the Plumbing Code of the City of Sunset Valley, and is made a part hereof, as amended.

Unless deleted, amended, expanded, or otherwise changed herein, all provisions of such code shall be fully applicable and binding. In the event a conflict is determined to exist between said International Plumbing Code as adopted and the other provisions of this Code of Ordinances, the most restrictive of the conflicting provisions will prevail.

(b) Amendments

The Uniform Plumbing Code is hereby modified as adopted by the addition of the following paragraph:

- (1) The Board of Appeals shall be the Board of Adjustment for the City of Sunset Valley.

Sec. 6.405 International Fire Code

(a) Adoption

The International Fire Code, 2015 Edition, including Appendices, as published by the International Code Council, is hereby adopted, and designated as the Fire Code of the City of Sunset Valley, and is made a part hereof, subject to the amendments of subsection (b) of this Section.

Except as expressly amended, all provisions of the International Fire Code, 2015 Edition shall be fully applicable and binding. In the event a conflict is determined to exist between said Fire Code as adopted and the other provisions of this Code of Ordinances, the most restrictive of the conflicting provisions will prevail.

(b) Amendments

The International Fire Code, 2015 Edition is hereby amended as follows:

- (1) Sections 25-12-171 and 25-12-172 of the City of Austin Land Development Code in effect as of the effective date of the ordinance adopting this Section are adopted and incorporated herein by reference, subject to the exception in subsection (b)(2) pertaining to Section 503.2.1 of the International Fire Code, 2015 Edition. In addition, the 2011 National Fire Protection Association Standard 58 and the 2012 National Fire Protection Association Standard 54 are hereby adopted and incorporated herein by reference.

- (2) Notwithstanding anything to the contrary in City of Austin Land Development Code Section 25-12-172, Section 503.2.1 of the International Fire Code, 2015 Edition is amended in its entirety to provide as

follows:

503.2.1 Dimensions. Except for streets and roads already in existence on May 5, 2009, fire apparatus access roads shall have an unobstructed width of not less than twenty (20) feet (including ribbon curbing, if any), except for approved security gates in accordance with Section 503.6 and the Fire Protection Criteria Manual, and an unobstructed vertical clearance of not less than fourteen (14) feet. Streets and roads already in existence on May 5, 2009 shall have an unobstructed width of not less than eighteen (18) feet (including ribbon curbing, if any) and may be maintained, repaired, and reconstructed, so long as their width remains no less than eighteen (18) feet. With the exception of reconstruction in progress on the effective date of this amendment, any existing street or road that is narrower than twenty (20) feet in width (including ribbon curbing, if any) shall, if reconstructed, have a width of not less than twenty (20) feet (including ribbon curbing, if any).

Sec. 6.406 NFPA 70 National Electrical Code (NEC)

(a) Adoption

The National Electrical Code, 2017 Edition, including Appendices, as published by the National Fire Protection Agency, is hereby adopted, and designated as the Electrical Code of the City of Sunset Valley, and is made a part hereof, as amended.

(b) Amendments

The National Electrical Code (NEC) is hereby modified as adopted by the addition of the following provision:

- (1) The Board of Appeals shall be the Board of Adjustment of the City of Sunset Valley.

Sec. 6.407 International Energy Conservation Code

(a) Adoption

The International Energy Conservation Code, 2015 Edition, including Appendices, as published by the International Code Council, is hereby adopted, and designated as the Energy Conservation Code of the City of Sunset Valley, and is made a part hereof, as amended.

(b) Amendments

The International Energy Conservation Code is hereby modified as adopted by the addition of the following provision:

- (1) The Board of Appeals shall be the Board of Adjustment of the City of Sunset Valley.

Sec. 6.408 International Swimming Pool and Spa Code

(a) Adoption

The International Swimming Pool and Spa Code, 2015 Edition, including Appendices, as published by the

International Code Council, is hereby adopted, and designated as the Swimming Pool and Spa Code of the City of Sunset Valley, and is made a part hereof, as amended.

(b) Amendments

The International Swimming Pool and Spa Code is hereby modified as adopted by the addition of the following provision:

- (1) The Board of Appeals shall be the Board of Adjustment of the City of Sunset Valley.

Division 6.5: Release and Vacation of Public Rights-of-Way and Easements, Alteration of Streets; Trench Safety for Public Works and Other Construction (Amended entire section January 16, 2001)

Sec. 6.500 Vacation of Streets and Other Public Ways

- (a) All persons desiring to have the City Council exercise its powers under Texas Transportation Code Section 311.008 as may be amended regarding abandoning, closing and vacating streets, alleys and other public ways and portions thereof, shall file their petition with the City, in writing, directed to the City Council. Such petition shall contain a description by metes and bounds as surveyed on the ground of the street, alley, or portion thereof, as the case may be, and attached to said petition shall be a list of all owners abutting said street, alley or portion thereof, as the case may be and shall be signed by all such owners.
- (b) Upon the filing of such petition with the City as provided in subsection 6.500(a), an administrative fee shall be deposited with the City Secretary in an amount established and fixed by the City Council. Such fee is non-refundable.
- (c) The City Council shall not act on such petition until such time as the City Administrator has received an executed release from each of the abutting property owners, releasing all claims arising out of the closing or vacation of the affected street or alley.

Sec. 6.501 Permit Required for Any Alteration in Any Street or Public Way

It shall be unlawful for any person to dig any trench or make any excavation or opening or any other alteration in or under any street, alley, public highway, right-of-way or easement of the City of Sunset Valley, Texas without first having obtained a permit to do so.

Sec. 6.502 Application for Permit to Alter Street

The application for a permit to dig any trench or make any excavation or opening or any other alteration in any of the streets, alleys, public highways, sidewalks, rights-of-way, or easements of the City shall be made to the City and state clearly the name of the street, highway, sidewalk or location of easements or rights-of-way in which it is proposed to make such opening; the purpose of making the opening; the name of the person or entity who proposes to make such excavation or opening; and any other information required by an application promulgated by the city for such purpose.

Sec. 6.503 Performance Bond and Public Liability Insurance Required

- (a) The city administrator or designee shall estimate the probable cost of repairing such street, sidewalk, right-of-way, easement, or highway to the required standard; and shall require the applicant to file a written bond in an amount sufficient to cover such cost, with two (2) or more sufficient sureties, conditioned that the street, sidewalk, right-of-way, easement, or highway shall be restored to as good or better condition than it was before the excavation or alteration was made. Such bond shall contain a provision for at least fifteen (15) days advance notice to the City prior to cancellation for any reason. Such bond is subject to the approval of the city attorney. An applicant may make a cash deposit of such sum in lieu of the written bond.
- (b) The conditions of the bond required in subsection 6.503(a) shall not be considered satisfied until the City shall have accepted the street, sidewalk, highway, right-of-way, or easements as being restored in good condition. In the event that the person making the opening shall fail to leave the affected area in a good state of repair, satisfactory to the City, then the City shall call upon the sureties to pay for the cost of repair; provided however, that in the event of a cash deposit, the City may proceed to have the street, sidewalk, right-of-way, easement, or highway put in good condition, paying for same out of the deposit made by the applicant, and if there be any remainder of said deposit after paying for such work, such remainder shall be refunded to the person making the deposit.
- (c) Before a permit may be issued hereunder, the applicant must comply with all applicable provisions of this Chapter pertinent to the issuance of such a permit and must show proof of comprehensive general liability insurance covering the work, including premises-operations and completed operations coverage, in not less than the following limits:

General Liability

Two Million Dollars (\$2,000,000.00) each occurrence

Two Million Dollars (\$2,000,000.00) aggregate

Property Damage

Five Hundred Thousand Dollars (\$500,000.00) each occurrence

Five Hundred Thousand Dollars (\$500,000.00) aggregate

- (d) Any policy providing for the above-required insurance shall name the City as an additional named insured for the duration of the work and shall contain a provision that the policy may not be cancelled, terminated or modified without fifteen (15) days advance written notice thereof to the City.
- (e) Cancellation of insurance will automatically cause the suspension of the permit for thirty (30) days unless reinstated or substitute insurance is furnished. Suspended permits shall be automatically canceled at the end of thirty (30) days.
- (f) When the bond or deposit and insurance required by this Chapter shall have been accepted by the City, and all other applicable provisions relevant to the granting of permits have been satisfied, the City shall issue a permit for the excavation set out in the application, and the applicant may then proceed with the work in the exact location named in its application, and in no other place.

Sec. 6.504 Approval for Closing of Streets, Barricades, Warning Lights, and Watchmen

- (a) The timing of all work of trenching, excavating or making any character of opening in any of the streets, alleys, sidewalks, highways, rights-of-way, or easements of the City shall be coordinated in advance with and subject to the approval of the city administrator in order to allow for any notice to affected residents and businesses and to allow for public safety planning. The day(s) of closure of a street, sidewalk, alley or right-of-way used for travel must be approved in advance by the city administrator to minimize disruption to the travelling public.
- (b) The permit holder shall erect and maintain warning signs, barricades and sufficient safeguards around all excavations, embankments, and obstructions; shall provide yellow warning lights on or near the work and keep them lighted at night or other times when visibility is limited; and shall employ such watchmen as may be necessary for the protection of the public.
- (c) Traffic lane closures must comply with the adopted standards of the City of Austin Transportation Criteria Manual. Variations to these standards may require submittal of an engineered traffic control plan.

Sec. 6.505 Duties upon Completion of Work

After the trenching, excavation or opening have been made, the permit holder shall backfill the excavation with such materials and in such manner as to comply with the adopted standards of the City of Austin Transportation Criteria Manual.

Sec. 6.506 Certificate of Final Inspection

After the making of such tests and inspections as may be necessary or desirable by the City, and the satisfactory completion of the restoration work, the City shall certify that the work has been completed in accordance with the provisions of the permit and issue a Certificate of Final Inspection.

Sec. 6.507 Trench Safety Systems

- (a) For purposes of this Section, the term "trench" shall have the meaning assigned that term in the standards promulgated by the Occupational Safety and Health Administration.
- (b) On all construction projects contracted by the City within the boundaries of the City or in its extraterritorial jurisdiction, in which trench excavation will exceed a depth of five (5) feet, the bid documents provided to all of the bidders and the contract shall include:
 - (1) A reference to the requirements pertaining to trench safety of Texas Health & Safety Code Chapter 756 and the Occupational Safety and Health Administration's standards for trench safety that will be in effect during the period of construction of the project;
 - (2) A copy of any special shoring requirements imposed by the City with a separate pay item for any such special shoring requirements based upon the square feet of shoring used;
 - (3) A copy of any geotechnical information that was obtained by the city for use by the contractor in the design of the trench safety system; and

(4) A separate pay item for trench excavation safety protection based on the linear feet of the trench excavated.

- (c) In connection with any trench excavation of a City street, sidewalk, right-of-way, or easement that will exceed a depth of five (5) feet, the owner of the affected project and the contractor must execute a written contract concerning trench safety. The project bid documents, if bids are used, and the written contract must include:
- (1) A reference to the Occupational Safety and Health Administration's standards for trench safety that will be in effect during the period of construction of the project;
 - (2) A copy of any special shoring requirements imposed by the City;
- (d) Each applicant for a permit on a project subject to the provisions of subsection 6.507(c) shall certify in writing to the City that the bid documents, if bids are used, and the written contract satisfy the requirements set forth in that subsection. In addition to or in lieu of requiring the filing of such certification, the City may, in its discretion, require the applicant to produce for inspection or to file with the City a copy of the contract that complies with that subsection. A permit shall not be issued to an applicant who fails to comply with the provisions of this subsection.
- (e) It shall be the duty and responsibility of the contractor and all of its subcontractors subject to a requirement of this Section to be familiar and comply with all of the requirements of federal and state laws, including the Occupational Safety and Health Act of 1970 (OSHA) and all amendments thereto, and to enforce and comply with all the provisions thereof.
- (f) For any work subject to the requirements of this section, the contractor shall have a competent person or persons as required under the Occupational Safety and Health Act on site to inspect the work and to supervise the conformance of the contractor's operation with federal regulations. The contractor shall make daily inspections of the trench safety systems to ensure that the systems meet OSHA requirements. Daily inspections are to be made by a competent person provided by the contractor.
- (g) The contractor shall indemnify and hold harmless the City, its employees and agents, from any and all damages, costs (including, without limitation, legal fees, court costs, and the cost of investigation), judgments or claims by anyone for injury or death to persons resulting from the collapse or failure of the trenches constructed under a permit issued by the City.
- (h) The contractor acknowledges and agrees that this indemnity provision provides indemnity for the City in case the City is negligent either by act or by omission in providing for trench safety, including, but not limited to inspections, failure to issue stop work orders, and the hiring of the contractor, if hired by the City.

Sec. 6.508 Application for Consent by Gas Corporation, Gas Utility, Electric Utility

- (a) A gas corporation or utility shall submit an application for consent prior to disturbance of any City street, alley, right-of-way, or easement for the location, re-location, or maintenance of a gas facility.

The application will disclose the proposed work to be performed, the location of the work, the materials and specifications for restoration of disturbed areas, and the proposed time for performance of the work. The timing of the proposed work shall be subject to the approval of the City administrator his designee, for the purpose of minimizing the disruption to traveling public, and access to residences and businesses. Restoration of all disturbed areas shall be in compliance with design and materials standards required by section 6.505 of this Division. No application fee shall be payable. The gas corporation or utility shall be liable to pay to the City the reasonable cost to repair damage to a public roadway, highway, street, alley, stream or other public way located in and maintained by the City that is caused by the gas corporation or utility and not repaired by the gas corporation or utility in compliance with the applicable standards.

- (b) An electric utility, as defined in Texas Utilities Code section 181.041, shall submit an application for consent prior to disturbance of any City street, alley, right-of-way, or easement for the location, relocation, or maintenance of a transmission line. The application will disclose the proposed work to be performed, the location of the work, the materials and specifications for restoration of disturbed areas, and the proposed time for performance of the work. The timing of the proposed work shall be subject to the approval of the City administrator his designee, for the purpose of minimizing the disruption to traveling public, and access to residences and businesses. Restoration of all disturbed areas shall be in compliance with design and materials standards required by section 6.505 of this Division. No application fee shall be payable. The electric utility shall be liable to pay to the City the reasonable cost to repair damage to a public roadway, highway, street, alley, stream or other public way located in and maintained by the City that is caused by the electric utility and not repaired by the electric utility in compliance with the applicable standards.

Sec. 6.509 Extending Utilities Under Any Street or Public Way

- (a) An applicant that proposes to alter an existing paved street, road, or alley for the purpose of extending any utilities under such street, road or alley shall be required to burrow under the street, road or alley for such purpose. No alteration of the surface of a paved street, road or alley shall be permitted for the purpose of extending any utility lines.
- (b) Notwithstanding subsection 6.509(a), in the event that the City Council determines that the pavement on the affected street, road or alley is of insufficient depth, quality or condition to justify any additional expense shown to be made necessary by the requirement of burrowing, the City Council may authorize an alteration of the surface of a road, street or alley for the purpose of extending utility lines.

Division 6.6: Underground Utility Lines (Amended June 5, 2018)

Sec. 6.600 Authority

This Chapter is adopted under the authority of the Constitution and laws of the State of Texas, including but not limited to the general police powers conferred on the city and Texas Local Government Code § 212.002.

Sec. 6.601 Purpose

The purpose of this Chapter of the Code is to require builders and owners, when developing any tract of land

which is subdivided into four or more lots after February 11, 1992, or when developing or re-developing any property zoned for commercial, office or multifamily uses to place all utilities underground.

Sec. 6.602 Variances

All requests for variances must be submitted in writing to the City Council. The City Council may authorize a variance from these regulations when in its opinion, undue hardship will result from requiring strict compliance, or when existing affected transmission lines make compliance impracticable.

Sec. 6.603 Utility Line Placement

When any new development takes place on any property within the City which either: (a) has been subdivided into four or more lots after February 11, 1992 or (b) is zoned for commercial, office or multifamily use; the owner or developer of any such lot shall refrain from constructing poles and installing overhead wires and associated structures, and, instead shall place all utility lines underground in accordance with sound engineering practices and in conformance with all uniform building codes adopted by the City.

Sec. 6.604 Intervening Property or Intervening Right-of-Way

Whenever it shall be necessary for an owner or developer of property described in Section 6.603 of this Chapter to obtain an extension of existing utility lines across any intervening property not described in Section 6.603 of this Chapter, or any intervening right-of-way in order that such utility lines extend to the owner or developer's property, the requirements of Section 6.603 of this Chapter shall apply to the placement of utility lines utility lines across such intervening property or intervening right-of-way.

Sec. 6.605 Responsibility for Payment of Installation Costs

All expenses for installation of utilities and for construction costs related to placing utility lines underground shall be borne by the developer of the property to which such utility lines are extended.

Sec. 6.606 Utility Lines

All utility lines that pass under a street or alley shall be at least three (3) feet beyond the edge of the pavement.