



CITY COUNCIL TRANSMITTAL


Lisa Shaffer (Dec 14, 2021 13:14 MST)

Lisa Shaffer, Chief Administrative Officer

Date Received: 12/14/2021

Date sent to Council: 12/14/2021

TO: Salt Lake City Council
Amy Fowler, Chair

DATE: November 15, 2021

FROM: Lorna Vogt, Director, Public Services Department



SUBJECT: Ordinance to provide notice prior to issuance of a permit to work in the ROW

STAFF CONTACTS: Matthew Cassel, City Engineer
Mark Stephens, Deputy Engineer
Kimberly Chytraus, Senior City Attorney

DOCUMENT TYPE: Ordinance

RECOMMENDATION: Approval

BUDGET IMPACT: None (FTE has already been approved and hired)

BACKGROUND/DISCUSSION:

Council has requested that Engineering codify and expand the policy that adjacent property owners are notified prior to work being performed in the ROW.

Notes:

- Matthew Cassel or Mark Stephens and Kimberly Chytraus plan on being at the table to present the ordinance and answer questions.

Attachments:

- A. Clean and Legislative Versions of Ordinance

SALT LAKE CITY ORDINANCE
No. _____ of 2021

(Amendment to Require Notice for Permits to Work in the Public Way)

An ordinance amending sections 14.32.030 and 14.32.035 and inserting a new section 14.32.036 of the *Salt Lake City Code* pertaining to notice of permits to work in the public way.

WHEREAS, the City Engineer has by policy requested that holders of a permit to work in the public way provide notice of such work to adjacent property owners prior to commencing such work; and

WHEREAS, the City Council desires that where there is construction in the public way, the City will require that notice is given to adjacent property owners as a requirement to obtain a permit to work in the public way; and

WHEREAS, the City Council now desires to amend this ordinance; and

WHEREAS, the City Council finds that this ordinance is in the best interest of the public.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the Text of Salt Lake City Code Section 14.32.030. That Section 14.32.030 of the *Salt Lake City Code* (Permit Application Requirements) shall be and hereby is amended as follows:

14.32.030: PERMIT APPLICATION REQUIREMENTS:

- A. The permit application shall contain, as applicable:
1. The name, address, telephone number, and email of the applicant. Where an applicant is not the owner or in sole control of the facility to be installed, maintained or repaired in the public way, the application also shall include the name, address, telephone number, and email of the owner;
 2. A description of the location, purpose, method of the proposed work, and surface and subsurface area to be affected;
 3. Where required by the City Engineer, a plan showing the proposed location of the work and the dimensions of any excavation and the facilities to be installed, maintained, or

repaired in connection with the work, and such other details, existing utilities, and drawing standards as the City Engineer may require;

4.

The proposed start date of the work;

5. The proposed duration of the work, including the duration of the restoration of the public way physically disturbed by the work;

6. The applicant's signature, certifying that all material to be used in the work and restoration of the public way, will be on hand and ready for use so as not to delay the work and the prompt restoration of the public way;

7. The applicant's signature, committing that the applicant will perform the work in compliance with all terms and conditions of this chapter, and all applicable engineering regulations;

8. Evidence that applicant carries insurance as required by either section 14.32.065 or the applicable agreement with the City;

9. A security device as required by section 14.32.070;

10. A scaled site plan, rendering or photo simulation, scaled elevation view and other supporting drawings and calculations, showing the location and dimension of all improvements. The submittal must include sufficient information to determine compliance with the standards and requirements of this chapter, specifically including information concerning structure height and location within the public way, compliance with the City's intersection and driveway sight distance standards, and compliance with the ADA;

11. Evidence of all regulatory approvals, permits, authorizations or licenses for the offering of such services from the appropriate Federal, State, and local authorities (whether the services are being offered by the permit provider or another person), upon request of City;

12. Evidence that the franchise holder (if not the applicant) has provided permission to perform the work on behalf of the franchise holder and, if applicable, permission to use or attach to franchise holder's property in the public way; and

13. Any other information that may reasonably be required by the City Engineer.

SECTION 2. Amending the Text of Salt Lake City Code Section 14.32.035. That Section 14.32.035 of the *Salt Lake City Code* (Permit Application Approval Criteria) shall be and hereby is amended as follows:

14.32.035: PERMIT APPLICATION APPROVAL CRITERIA:

A. In reviewing the permit application for approval, the City Engineer shall consider, among other things, the following:

1. The capacity of the public way to accommodate the facilities proposed to be constructed and installed, and the compatibility of such new facilities with existing facilities;
2. Any damage to or disruption of public or private facilities, improvements, or landscaping in the public way;
3. The capacity of the public way to accommodate multiple work in the public way projects or other conflicting uses of the public way;
4. Any existing excavation restrictions imposed by the City Engineer pursuant to section 14.32.085;
5. The availability of alternatives to excavation, including, without limitation, the existence of excess capacity in the public way, or the feasibility of using tunneling, boring, or other trenchless technology;
6. The qualifications and reputation of the applicant;
7. The financial strength of the applicant, including the applicant's ability to provide the required security; and
8. Notice to adjacent property owners has been accomplished as described in 14.32.036.

B. The City Engineer may deny the issuance of permits to persons who have shown by past performance that they will not consistently conform to the engineering regulations, construction specifications, design standards or the requirements of this chapter; provided that prior to any such denial, such person shall be given written notice of the basis for such denial, and shall be given a reasonable opportunity to be heard in connection therewith.

C. When necessary, in the judgment of the City Engineer, to fully determine the relationship of the work proposed to existing or proposed facilities within the public ways, or to determine whether the work proposed complies with the engineering regulations, construction specifications and design standards, the City Engineer may require the filing of engineering plans, specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.

D. The disapproval or denial of an application by the City Engineer may be appealed by the applicant to the Director of Public Services, by the filing of a written notice of appeal within ten (10) days of denial. The Director of Public Services shall hear such appeal and render his/her decision, within fifteen (15) days following notice of such appeal.

E. In approving or disapproving work within the public way, or permits therefor; in the inspection of such work; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred upon him/her by this chapter, the City Engineer shall act in such manner as to preserve and protect the public way and the use thereof.

SECTION 3. Inserting a new Salt Lake City Code Section 14.32.036. That Section 14.32.036 of the Salt Lake City Code (Notice Requirements) shall be and hereby is inserted as follows:

A. Prior to the City issuing a Work in the ROW permit, notice of the proposed work shall be delivered to the occupant at the adjacent properties, except as otherwise provided herein. Notice will be delivered by applicant unless otherwise determined by the City Engineer.

1. "Adjacent properties" means (a) the property with a boundary contiguous to the portion of the public way where the work is proposed, and (b) the property on each side of the contiguous property.

a. With respect to proposed work located below ground and behind the curb and gutter, notice shall be delivered to the occupant of the adjacent properties on the same side of the public way as the proposed work.

b. With respect to proposed work located below ground and in the paved section of the public way, notice shall be delivered to the occupant of the adjacent properties on both side of the public way.

c. With respect to proposed work located above ground, notice shall be delivered to the occupant of the adjacent properties on both sides of the public way.

2. The notice shall meet the following requirements:

a. Notice shall be given by either:

(i) placing a door hanger or flyer on the building on the adjacent properties in a conspicuous location and affixed in a manner that it won't easily be dislodged by weather, or

(ii) mailing notice to the occupant and, if a separate address, the record owner of the adjacent property. The notice must be mailed if the adjacent property is a vacant lot.

b. Each notice shall contain the name of the permit applicant and a contact phone number and email address for the permit applicant.

c. Each notice shall describe the reason for the construction, the anticipated date(s) of construction, and whether the street will be closed due to construction.

3. If notice is delivered by the applicant, evidence of satisfactory notice means a construction drawing showing which properties were noticed, a copy of the provided notice, and any of the following: an affidavit from the permit applicant confirming delivery of notice and the date notice was delivered, a photo showing the notice on the building and property address, a certificate of mailing, or a signed receipt for certified mail delivery. If the City provides the notice, it shall keep a record of how and where the notice was delivered.

4. No notice shall be required in the following situations:

a. Any work where a permit is not required.

b. Emergency situations.

c. Certain maintenance type activities where the street remains passable and unrestricted, such as snow plowing, street sweeping, street patching activities, and pothole repairs.

d. Replacement work where the work is replacing like for like (example -replacing a section of sidewalk with the same width sidewalk).

e. Placement of a dumpster, POD or other obstruction for less than 8 days.

SECTION 4. Effective Date. This ordinance shall become effective on the date of its passage.

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2021.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

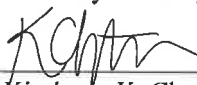
Transmitted to Mayor on _____.
Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2021.
Published: _____.

Approved As To Form
Salt Lake City Attorney's Office
By: 
Kimberly K. Chytraus
Date: November 12, 2021

LEGISLATIVE DRAFT

SALT LAKE CITY ORDINANCE

No. _____ of 2021

(Amendment to Require Notice for Permits to Work in the Public Way)

An ordinance amending sections 14.32.030 and 14.32.035 and inserting a new section 14.32.036 of the *Salt Lake City Code* pertaining to notice of permits to work in the public way.

WHEREAS, the City Engineer has by policy requested that holders of a permit to work in the public way provide notice of such work to adjacent property owners prior to commencing such work; and

WHEREAS, the City Council desires that where there is construction in the public way, the City will require that notice is given to adjacent property owners as a requirement to obtain a permit to work in the public way; and

WHEREAS, the City Council now desires to amend this ordinance; and

WHEREAS, the City Council finds that this ordinance is in the best interest of the public.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the Text of *Salt Lake City Code* Section 14.32.030. That Section 14.32.030 of the *Salt Lake City Code* (Permit Application Requirements) shall be and hereby is amended as follows:

14.32.030: PERMIT APPLICATION REQUIREMENTS:

A. ~~The permit application~~Applications for a permit shall be filed with the City Engineer on a form or forms to be furnished by the City Engineer, and shall contain, as applicable:

1. The name, address, telephone number, and ~~facsimile number~~email of the applicant. Where an applicant is not the owner or in sole control of the facility to be installed, maintained or repaired in the public way, the application also shall include the name, address, telephone number, and ~~facsimile number~~email of the owner;

2. A description of the location, purpose, method of the proposed work, and surface and subsurface area to be affected;

3. Where required by the City Engineer, a plan showing the proposed location of the work and the dimensions of any excavation and the facilities to be installed, maintained, or

31 repaired in connection with the work, and such other details, existing utilities, and drawing
32 standards as the City Engineer may require;

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34 ~~4.— A copy or other documentation of the use permit authorizing the applicant or owner to~~
35 ~~use or occupy the public way for the purpose described in the application, including the~~
36 ~~appropriate franchise agreement or master license agreement. Where the applicant is not the~~
37 ~~owner of the facility or facilities to be installed, maintained, or repaired, the applicant must~~
38 ~~demonstrate in a form and manner specified by the City Engineer that the applicant is~~
39 ~~authorized to act on behalf of the owner;~~

40 5.4.

41 - The proposed start date of the work;

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43 ~~6.5.~~ 6.5. The proposed duration of the work, ~~which shall include including~~ the duration of
44 the restoration of the public way physically disturbed by the work;

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46 ~~7.6.~~ 7.6. The applicant's signature, certifying ~~Written certification~~ that all material to be
47 used in the work and restoration of the public way, will be on hand and ready for use so as
48 not to delay the work and the prompt restoration of the public way;

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50 ~~8.7.~~ 8.7. The applicant's signature, committing ~~Written certification~~ that the applicant ~~and~~
51 ~~owner are will perform the work~~ in compliance with all terms and conditions of this chapter,
52 ~~the orders,~~ and all applicable ~~rules and engineering~~ regulations ~~of the City Engineer, and that~~
53 ~~the applicant and owner are not subject to any outstanding assessments, fees or penalties that~~
54 ~~have been finally determined by the City;~~

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56 ~~9.8.~~ 9.8. Evidence ~~that applicant carries of~~ insurance as required by either
57 section 14.32.065 ~~of this chapter~~ or the applicable agreement with the City;

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59 ~~10.9.~~ 10.9. A ~~performance deposit security device~~ as required by section 14.32.070 ~~of this~~
60 ~~chapter;~~

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62 ~~11.10.~~ 11.10. A scaled site plan, rendering or photo simulation, scaled elevation view and
63 other supporting drawings and calculations, showing the location and dimension of all
64 improvements. The submittal must include sufficient information to determine compliance
65 with the standards and requirements of this chapter, specifically including information
66 concerning structure height and location within the public way, compliance with the City's
67 intersection and driveway sight distance standards, and compliance with the ADA;

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69 ~~12.11.~~ 12.11. Evidence of all regulatory approvals, permits, authorizations or licenses for the
70 offering of such services from the appropriate Federal, State, and local authorities (whether
71 the services are being offered by the permit provider or another person), upon request of
72 City;

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~~13.12.~~ Evidence that the ~~owner franchise holder~~ (if not the applicant) has provided permission to perform the work on behalf of the ~~owner franchise holder~~ and, if applicable, permission to use or attach to ~~owner's franchise holder's~~ property in the public way; and

~~14.13.~~ Any other information that may reasonably be required by the City Engineer.

SECTION 2. Amending the Text of Salt Lake City Code Section 14.32.035. That Section 14.32.035 of the *Salt Lake City Code* (Permit Application Approval Criteria) shall be and hereby is amended as follows:

14.32.035: PERMIT APPLICATION APPROVAL CRITERIA:

A. ~~Factors to be considered by the City in~~ In reviewing the permit application for approval, ~~and the scope and timing of approved work, shall includethe City Engineer shall consider,~~ among other things, the following:

1. The capacity of the public way to accommodate the facilities proposed to be constructed and installed, and the compatibility of such new facilities with existing facilities;
2. Any damage to or disruption of public or private facilities, improvements, or landscaping ~~then existing~~ in the public way;
- ~~3. The public interest in minimizing the cost and disruption of construction from numerous excavations in the public way;~~
3. The capacity of the public way to accommodate multiple work in the public way projects or other conflicting uses of the public way;
4. Any ~~then existing~~ excavation restrictions imposed by the City Engineer pursuant to section 14.32.085 ~~of this chapter~~;
5. The availability of alternatives to excavation, including, without limitation, the existence of excess capacity in the public way, or the feasibility of using tunneling, boring, or other trenchless technology;
6. The qualifications and reputation of the applicant;
7. The financial strength of the applicant, including the applicant's ability to provide the required ~~bonding and~~ security; and
- 7.8. Notice to adjacent property owners has been accomplished as described in 14.32.036. and

112 8. Potential conflicts with other uses of the public way.
113

114 B. The City Engineer may deny the issuance of permits to persons who have shown by past
115 performance that they will not consistently conform to the engineering regulations, construction
116 specifications, design standards or the requirements of this chapter; provided that prior to any
117 such denial, such person shall be given written notice of the basis for such denial, and shall be
118 given a reasonable opportunity to be heard in connection therewith.
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120 C. When necessary, in the judgment of the City Engineer, to fully determine the relationship
121 of the work proposed to existing or proposed facilities within the public ways, or to determine
122 whether the work proposed complies with the engineering regulations, construction
123 specifications and design standards, the City Engineer may require the filing of engineering
124 plans, specifications and sketches showing the proposed work in sufficient detail to permit
125 determination of such relationship or compliance, or both, and the application shall be deemed
126 suspended until such plans and sketches are filed and approved.
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128 D. The disapproval or denial of an application by the City Engineer may be appealed by the
129 applicant to the Director of Public Services, by the filing of a written notice of appeal within ten
130 (10) days of denial. The Director of Public Services shall hear such appeal and render his/her
131 decision, within fifteen (15) days following notice of such appeal.
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133 E. In approving or disapproving work within the public way, or permits therefor; in the
134 inspection of such work; in reviewing plans, sketches or specifications; and generally in the
135 exercise of the authority conferred upon him/her by this chapter, the City Engineer shall act in
136 such manner as to preserve and protect the public way and the use thereof.
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138 SECTION 3. Inserting a new Salt Lake City Code Section 14.32.036. That Section

139 14.32.036 of the Salt Lake City Code (Notice Requirements) shall be and hereby is inserted as
140 follows:

141 A. Prior to the City issuing a Work in the ROW permit, notice of the proposed work shall be
142 delivered to the occupant at the adjacent properties, except as otherwise provided herein. Notice
143 will be delivered by applicant unless otherwise determined by the City Engineer.

144 1. "Adjacent properties" means (a) the property with a boundary contiguous to the portion
145 of the public way where the work is proposed, and (b) the property on each side of the
146 contiguous property.
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148 a. With respect to proposed work located below ground and behind the curb and
149 gutter, notice shall be delivered to the occupant of the adjacent properties on the same
150 side of the public way as the proposed work.

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152 b. With respect to proposed work located below ground and in the paved section of
153 the public way, notice shall be delivered to the occupant of the adjacent properties on
154 both side of the public way.

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156 c. With respect to proposed work located above ground, notice shall be delivered to
157 the occupant of the adjacent properties on both sides of the public way.

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159 2. The notice shall meet the following requirements:

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161 a. Notice shall be given by either:

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163 (i) placing a door hanger or flyer on the building on the adjacent properties in
164 a conspicuous location and affixed in a manner that it won't easily be dislodged by
165 weather, or

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167 (ii) mailing notice to the occupant and, if a separate address, the record owner
168 of the adjacent property. The notice must be mailed if the adjacent property is a vacant
169 lot.

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171 b. Each notice shall contain the name of the permit applicant and a contact phone
172 number and email address for the permit applicant.

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174 c. Each notice shall describe the reason for the construction, the anticipated date(s)
175 of construction, and whether the street will be closed due to construction.

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177 3. If notice is delivered by the applicant, evidence of satisfactory notice means a
178 construction drawing showing which properties were noticed, a copy of the provided notice,
179 and any of the following: an affidavit from the permit applicant confirming delivery of notice
180 and the date notice was delivered, a photo showing the notice on the building and property
181 address, a certificate of mailing, or a signed receipt for certified mail delivery. If the City
182 provides the notice, it shall keep a record of how and where the notice was delivered.

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184 4. No notice shall be required in the following situations:

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186 a. Any work where a permit is not required.

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188 b. Emergency situations.

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190 c. Certain maintenance type activities where the street remains passable and
191 unrestricted, such as snow plowing, street sweeping, street patching activities, and
192 pothole repairs.

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d. Replacement work where the work is replacing like for like (example -replacing a section of sidewalk with the same width sidewalk).

e. Placement of a dumpster, POD or other obstruction for less than 8 days.

SECTION 4. Effective Date. This ordinance shall become effective on the date of its passage.

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2021.

CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

Transmitted to Mayor on _____.
Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2021.
Published: _____.

Approved As To Form
Salt Lake City Attorney's Office
By: _____
Kimberly K. Chytraus
Date: _____