CITY OF LOGAN, UTAH
ORDINANCE NO. 14-33

AN ORDINANCE AMENDING RIGHT OF WAY CONSTRUCTION ORDINANCE INCLUDING AMENDING SECTION 12.06.010 DEFINITIONS; AMENDING SECTION 12.06.120 REGARDING RESTORATION OF PUBLIC PROPERTY; AMENDING SECTION 12.06.130 INSURANCE REQUIREMENTS; AND AMENDING 12.06.140 BOND; WHEN REQUIRED, CONDITIONS, WARRANTY

WHEREAS, the City Council has determined that the following ordinance is in the City’s best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

12.06.010: DEFINITIONS:

As used in this chapter:

APPLICANT: Any person who makes application for a permit.

BUSINESS: Any place in Logan City in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

CITY: Logan City, a municipal corporation of the state of Utah.

CITY ENGINEER: The city engineer, or his/her authorized representative.

EMERGENCY: Any unforeseen circumstances or occurrence, the existence of which constitutes an immediate occurrence, the existence of which constitutes an immediate danger to persons or property or which causes interruption of utility or public services.

ENGINEERING REGULATIONS, REGULATIONS, SPECIFICATIONS AND/OR DESIGN STANDARDS: The latest version "City Of Logan Department Of Public Works Standards And Specifications" as published and adopted by the city engineer.

FAILURE: A work site restoration which fails to meet city engineer specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurements of failure further defined in the engineering regulations are incorporated as part of this definition.

INFRASTRUCTURE PROVIDER: A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the right of way.

OPERATOR: Any person who provides service over a telecommunications system and directly or through one or more affiliates owns a controlling interest in such system, or who otherwise
controls or is responsible for the operation of such a system.

PERMITTEE: Any person who has been issued a permit and thereby has agreed to fulfill the requirements of this chapter.

PERSON: Means and includes any natural person, partnership, firm, association, provider, corporation, company, organization, or entity of any kind.

PIPE DRIVEWAY: A driveway approach which uses a pipe or other means to bridge the gutter.

PRIVATE DRAIN LINE: A pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring or storm water, or condensate into the public drainage system.

PROPERTY OWNER: A person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

PROVIDER: An operator, infrastructure provider, reseller, system lessee, or public utility company.

PUBLIC UTILITY COMPANY: Any company subject to the jurisdiction of the Utah state public service commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.

PUBLIC WAY: Means and includes all public rights of way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, utility easements, and public drainage ways. It does not, however, include private utility easements not within public ways of the city.

RESELLER: Refers to any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights of way.

RESIDENT: The person or persons currently making their home at a particular dwelling.

STORM DRAIN: A dedicated pipe, conduit, water way or ditch installed in a right of way or easement for the transmission of storm and drainage water. This term does not include private drain lines.

SYSTEM LESSEE: Refers to any person that leases a system or a specific portion of a system to provide services.

TELECOMMUNICATIONS SYSTEM OR SYSTEM: All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased or used by a provider located in the construction, ownership, operation, use or maintenance of a telecommunications system.

WORK SITE RESTORATION: Means and includes the restoring of the original ground or paved hard surface area to comply with engineering regulations, and includes, but is not limited
to, repair, cleanup, backfilling, compaction and stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

12.06.120: RESTORATION OF PUBLIC PROPERTY:

The permittee shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement and gravel base material with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations, design standards and specifications promulgated by the city and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the department.

12.06.130: INSURANCE REQUIREMENTS:

A. Before a permit is issued, the applicant shall furnish to the city written evidence that the applicant has a comprehensive commercial general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions or with such alternative limits and provisions as may be approved by the city:

1. A minimum of one million dollars ($1,000,000.00) combined single limit per occurrence for general liability including bodily injury, personal injury, and property damage and not less than twone million dollars ($2,000,000.00) in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two (2) times the required occurrence limit. The coverage shall be in the nature of broad form commercial general liability coverage. The city attorney or risk manager may increase or decrease minimum insurance limits, depending on the potential liability of any project.

2. All policies shall name the city, its employees, officers, officials, agents, volunteers, and assigns, as additional insureds. Any reference to the city shall include the city, its employees, officers, officials, agents, volunteers and assigns.

3. The coverage shall be primary insurance as respects the city, its employees, officers, officials, agents, volunteers and assigns. Any insurance or self-insurance maintained by the city, its employees, officers, officials, agents, volunteers and assigns shall be in excess of the permittee's insurance and shall not contribute to or be added with it.

4. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the city, its employees, officers, officials, agents, volunteers and assigns.

5. Coverage shall state that the permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Underwriters shall have no right of recovery or subrogation against the city, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
7. The insurance companies issuing the policy or policies shall have no recourse against the city for payment of any premiums due or for any assessments under any form of any policy.

8. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, sent to the city.

95. The permittee shall agree each policy shall be endorsed to indemnify, save harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the permittee, the permittee's subcontractor or agent, whether or not the work has been completed and whether or not the right of way has been opened to public travel.

10. Each policy shall be endorsed to indemnify, hold harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit including, but not limited to, falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right of way is opened for public use.

B6. Insurance is to must be placed with insurers with an A.M. Best rating of no less than an A carrier, with a rating of "A7A-.IX" or higher.

GB. The permittee shall furnish the city with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The city expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.

D. If any of the required policies are, or at any time become, unsatisfactory to the city as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the city, the permittee shall promptly obtain a new policy, submit the same to the city for approval, and thereafter submit verification of coverage as required by the city. Upon failure to furnish, deliver and maintain such insurance as provided herein, the city may declare the permit to be in default and pursue any and all remedies the city may at law or in equity, including those actions outlined in this chapter.

EC. The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

FD. Any deductibles or self-insured retentions shall be declared to and approved by the city. At the option of the city, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the city, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the city, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

G. A property owner performing work adjacent to the property owner's residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.
H. A provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances:

1. If such company shall submit satisfactory evidence in advance that:

a. It is insured in the amounts set forth in this chapter, or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit, and

b. Said coverage provides to the city the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter; or

2. The work to be performed under the permit issued to the applicant is to be performed by the city, in which case insurance or other risk transfer issues shall be negotiated between the city and the applicant by separate agreement.

12.06.140: BOND; WHEN REQUIRED, CONDITIONS, WARRANTY:

A. Except as noted in this chapter, each applicant, before being issued a permit, shall provide the city with an acceptable security (this may include a corporate surety bond, cash bond, or letter of credit, as determined by the city) in an amount sufficient to guarantee faithful performance of the work authorized by a permit granted pursuant to this chapter. The amount of the security required may be increased or decreased at the discretion of the city engineer whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of security otherwise required under this chapter. The form of the security and the entity issuing the security shall be subject to the approval of the city attorney.

B. Public utilities franchised by the city shall not be required to file any security if such requirement is expressly waived in the franchise documents.

C. The security required by this section shall be conditioned as follows:

1. The permittee shall fully comply with the requirements of the city ordinances and regulations, specifications and standards promulgated by the city relative to work in the public way, and respond to the city in damages for failure to conform therewith;

2. After work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the public way to construction specifications, so as not to obstruct the public place or travel thereon more than is reasonably necessary;

3. The permittee shall guarantee the materials and workmanship for a period of two-one (12) years from completion of such work, with reasonable wear and tear excepted; and

4. That unless authorized by the city engineer on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three (3) calendar days, and within seven (7) calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering
regulations. In winter, a temporary patch must be provided. In all excavations, restoration of pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS 17th DAY OF June 2014, BY THE FOLLOWING VOTE:

AYES: Daines, Simmons, Ward, Needham, Olson
NAYS: None
ABSENT: None

/s/ Karl Ward, Chair

ATTEST:
/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this 17th day of June, 2014.

/s/ Karl Ward, Chair

MAYOR’S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 17th day of June, 2014.

/s/ H. Craig Peterson, Mayor
Civil

PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss

On this 3rd day of June, A.D. 2014 personally appeared
before me Monica Christensen who being first being duly sworn, deposes and says that
she is the Assistant to the Finance Director of the Cache Valley Publishing Co., publishers of The Herald Journal
a daily newspaper published in Logan City, Cache County Utah, and that the
Legal Notice, a copy of which is hereto attached was published in said
newspaper for 1 issue(s) and that said notice also published on utahlegals.com
on the same days(s) as publication in said newspaper.

Commencing on the following days:
06/01/2014

__________________________  Assistant to the Finance Director

Subscribed and sworn to before me on this 3rd day of June, A.D. 2014

__________________________  Notary Public
Commissioned in the State of Utah

My Commission expires August 1, 2015

NOTICE OF PUBLIC HEARING
Logan Municipal Council

The Municipal Council of the City of Logan, Utah will hold
public hearings to consider the following:

Consideration of a proposed resolution increasing certain
Community Development fees including adding a Public Notice Fee, a proposed resolution adopting revised Water Service Connection fees, a proposed resolution revising Work in the Right-of-Way Permit fees, a proposed resolution establishing Land Disturbance Permit fees, a proposed resolution revising Aerial Photo Purchase rates and a proposed amendment to the Right-of-Way Construction Ordinance including amending Section 12.06.010 Definitions; amending Section 12.06.120 regarding Restoration of Public Property; amending Section 12.06.130 Insurance Requirements; and amending Section 12.06.140 Bond.

Said public hearings will be held Tuesday, June 17, 2014, not before 5:30 p.m. in the Logan Municipal Council Chambers, 290 North 100 West, Logan UT.

Full text of the resolution and ordinance are available for inspection at the City Recorder’s Office during business hours.

Teresa Harris, City Recorder
Publication Date: June 1, 2014