

Title 11

PUBLIC PROPERTY

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Chapter 11.05**ENCROACHMENTS**

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11.05.010 Definitions.

As used in this chapter:

Director means the director of public works and community development.

Encroach means going on, over, or under, or using a right-of-way in a manner which prevents, obstructs, or interferes with the normal use of that way, including the performance of any of the following acts:

1. Excavating or disturbing the rights-of-way;
2. Erecting or maintaining a post, sign, pole or fence on, over, or under the right-of-way;
3. Planting a tree, shrub, grass, or other growing thing within the right-of-way;
4. Placing or leaving on the right-of-way rubbish, brush, earth, or other material;
5. Constructing, placing, or maintaining on, over, under, or within the right-of-way a pathway, sidewalk, driveway or other surfacing, a culvert or other surface drainage or subsurface drainage facility, or a pipe, conduit, or cable;
6. Traveling on the right-of-way by any vehicle or combination of vehicles or object of dimension, weight, or other characteristic prohibited by law without a permit;

7. Lighting or building a fire within the right-of-way;
8. Constructing, placing, planting, or maintaining any structure, embankment, excavation, tree, or other object adjacent to the right-of-way which causes or will cause an encroachment.

Permittee means a person proposing to do work or encroach on a right-of-way who holds a permit for encroachment.

Public street means the full width of the surfaced or traveled portion, including shoulders, of a road, street, path, lane or alley dedicated to, reserved for, or used by or for the general public when the road, street, path, lane and alley have been accepted as part of the city system of public streets, except highways forming a part of the state highway system.

Right-of-way means and includes all land or interest in land which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for road or highway purposes. (Amended during 2005 recodification; 1991 code § 15-1.1)

11.05.020 Permit required.

- A. No person without first obtaining a written permit may:
 1. Encroach within, on, over, or under the limits of a right-of-way;
 2. Make an alteration within, on, over, or under a right-of-way;
 3. Construct, put on, maintain, or leave on a right-of-way any obstruction or impediment;
 4. Cut or trim trees or set a fire on a right-of-way;
 5. Place on, over, or under a right-of-way a pipeline, conduit, or other fixture;
 6. Move, over the surface of a right-of-way or over a bridge, viaduct, or other structure maintained by the city, a vehicle or other object of size or weight prohibited by law or having other characteristics capable of damaging the right-of-way; or
 7. Place a structure, wall, culvert, or similar encroachment, or make an excavation or embankment so as to endanger the normal usage of the right-of-way.
- B. Before a vehicle or object of weight, size, or characteristic prohibited by law without a permit is moved on a public right-of-way, a permit shall first be granted by the director as set forth in specifications adopted by council resolution.
- C. No changes may be made in the location, size, character, or duration of the encroachment except on written authorization by the director. No permit is required for the continuing use or maintenance of encroachments installed by public utilities or for changes to them where the changes or additions require no excavation of the right-of-way. (1991 code § 15-1.2)

11.05.030 Application.

- A. The director is the officer charged with issuing an encroachment permit. The director shall prescribe and provide a regular form application for a permit required by this chapter. The application shall require the applicant's name and address and the contractor's name, licensee number and primary place of business, if the applicant proposes to employ a contractor, together with the detail necessary to establish the purpose and use, location, dimension and estimated dates of commencement and completion of the encroachment. The application form shall be completed and signed by the applicant and filed with the director.
- B. The applicant shall file with the application a map, plat, sketch, diagram or similar exhibit, when required by the director, on which shall be plainly shown all information necessary to locate the proposed use or encroachment and the right and necessity of the applicant to cause an encroachment. (1991 code § 15-1.3)

11.05.040 Consent to work.

The applicant shall file with the application copies of the written order or consent to work which is required by the Public Utilities Commission, sanitary district, water district, or other public body having jurisdiction. The director may not issue a permit until the consent is obtained and evidence of it filed with the director. The permittee shall inform himself or herself of all state and federal laws and local ordinances and regulations which affect the permit. The applicant at all times shall comply with all such laws, ordinances, regulations, decisions and court orders, and shall protect and indemnify the city and its officers, agents and employees against claims or liability proximately caused by the violation of any law, ordinance, regulation, or order issued in accordance with law. (1991 code § 15-1.4)

11.05.050 Fees.

A. Fee amount. The schedule of fees are those established by the council by resolution. Before a permit is issued, the applicant shall deposit with the city cash or check for issuance of the permit, a fee for restoring the pavement, charges for field investigation, and the fee for necessary inspection, all in accordance with a schedule established by the council.

B. Billing in lieu of deposit. Each public utility and political subdivision, at the director's option, may pay the charges as billed by the city instead of advance deposit.

C. Waiver. At his or her option, the director may waive the fee for: (1) a city-sponsored project; or (2) a project of the Diablo Vista Water District; or (3) an applicant who voluntarily complies with city notice to abate a nuisance, including sidewalk repair. (Ord. 744 § 1, 2000; 1991 code § 15-1.5)

11.05.060 Nontransferable.

A permit issued under this chapter is not transferable. The person making the encroachment shall obtain the permit and furnish the bond. (1991 code § 15-1.6)

11.05.070 Display of permits.

A. The permittee shall keep the permit at the site of work or in the cab of a vehicle when its movement on a public highway is involved. The permit must be shown to an authorized representative of the city on demand.

B. A permit issued for continuing use or maintenance of an encroachment may be kept at the place of business of the permittee, but shall be made available to an authorized representative of the city within a reasonable time after demand. (1991 code § 15-1.7)

11.05.080 Validity – Termination.

A permit is valid for one year from the date of issuance, unless the permit specifies otherwise, or unless sooner terminated by discontinuance of the use, removal of the encroachment, or termination of the permit by written order of the director. The director may terminate the permit by mailing a written order 30 days before the date of termination. (1991 code § 15-1.8)

11.05.090 Cash deposit or bond.

A. Cash deposit. Unless this subsection is waived in the permit and before a permit is effective, an applicant shall deposit with the city cash or a certified or cashier's check in a sum to be fixed by the director as sufficient to reimburse the city for costs of restoring the right-of-way to its former condition, based on the schedule adopted by resolution of the council. An applicant may file a cash deposit on an annual basis in a sum estimated by the director as sufficient to cover his or her activities during any 12-month period.

B. Bond in lieu of cash deposit. Instead of the cash deposit prescribed by subsection A of this section, the applicant on approval by the director may file a cash deposit in the minimum sum established by the schedule adopted by the council. The balance of the sum fixed as sufficient to reimburse the city for restoring the right-of-way may be filed in the form of an approved surety bond issued by a company authorized to do a general surety business in the state.

C. Annual bond. Instead of a cash deposit, the applicant on approval by the director may annually file with the city an approved surety bond issued by a company authorized to do a general surety business in the state, in a sum fixed by the director as sufficient to reimburse the city for expenses in restoring the right-of-way to its former condition.

D. Additional bond or deposit. The city may require an additional bond or cash deposit at any time that evidence indicates that the amount of the bond or cash deposit previously made is insufficient to cover the cost of restoring the right-of-way to its former condition.

E. Compliance. The condition of the bond or cash deposit is that the permittee comply diligently and in good faith with this chapter and the terms and conditions of the permit.

F. Payment and release. The bond or cash deposit required shall be payable to the city. On satisfactory completion of all work authorized in the permit and fulfillment of all conditions of the permit, the council may release the bond or cash deposit on the expiration of 90 days. (1991 code § 15-1.9)

11.05.100 Commencement of work.

A. The permittee shall begin the work authorized by a permit within 90 days from date of issuance, unless a different period is stated in the permit. If the work or use is not begun within 90 days, or within the time stated in the permit, then the permit becomes void, unless before its expiration the time for beginning has been extended in writing by the director.

- B. The permittee shall notify the director of the time of beginning work before beginning any work such as:
1. Excavation;
 2. Construction of sidewalks, curbs, gutters, or driveway approaches;
 3. Planting, trimming, or removing trees;
 4. Placing an obstruction in the right-of-way. (1991 code § 15-1.10)

11.05.110 Completion of work.

A. Required – Cancellation. The permittee shall complete the work authorized by a permit within the time specified in the permit. If at any time the director finds that delay in beginning, prosecuting, or completing the work is due to lack of diligence by the permittee, he or she may cancel the permit and restore the right-of-way to its former condition. The permittee shall reimburse the city for all expenses incurred in restoring the right-of-way, plus 15% as administrative costs.

B. Notice. Unless this subsection is waived in the permit, the permittee shall notify the director when work is complete. Work is not complete until notice of completion is given.

- C. Restoration and maintenance.
1. On completion of the work authorized by the permit or when required by the director, the permittee shall replace and restore the right-of-way as provided in this chapter and adopted specifications, or as directed by the director. The permittee shall remove all obstructions and material placed on the right-of-way and shall do any other work necessary to restore the right-of-way to a safe and usable condition.
 2. After completion of the work, the permittee shall exercise reasonable care in inspecting and maintaining the area affected by the encroachment. On notice from the director, the permittee shall immediately repair any damage or nuisance in the right-of-way resulting from the work done. If the permittee fails to act

promptly or if repairs or replacement are necessary before the permit can be notified or respond to notice, the city may perform the necessary work and charge the permittee the actual costs of labor and materials, plus 15% as administrative costs. Acceptance of the permit is an agreement to comply with this chapter. (1991 code § 15-1.11)

11.05.120 Conformance to specifications.

A. All encroachment repair work shall conform to specifications established by the city or in their absence to recognized standards of construction and approved practices.

B. Unless otherwise noted on the permit, all encroachment repair work performed on a right-of-way shall conform to the construction specifications contained in the current edition of the Standard Specifications of the State of California, issued by the Department of Public Works, Division of Highways, as may be amended by the city. (1991 code § 15-1.12)

11.05.130 Backfilling.

A. Specifications. Backfilling and compaction of an excavation shall meet specifications established by the city.

B. Storage of materials. A permittee may not store material within five feet of a public highway and shall remove excess earth materials from trenching or other operations from the pavement, traveled way, or shoulder as the trench is backfilled. (1991 code § 15-1.13)

11.05.140 Trees.

A. Planting and maintenance.

1. A person who desires to plant a tree in the right-of-way shall file an application with the city. The city shall provide the form. The application shall include an agreement by the applicant to maintain the tree in a neat, healthy and safe condition to the satisfaction of the city, and an agreement to remove the trees as directed by the city and to pay the cost of removal upon the permittee's failure promptly to remove the trees as directed by the city. The application shall show the location and kind of tree to be planted.

2. A tree placed in the right-of-way shall be maintained by the permittee or his or her successor in interest or by some other interested party in a neat, healthy and safe condition to the satisfaction of the director and at no expense to the city. If the encroachment is not located and maintained as specified in this chapter, the director may direct the permittee to remove the encroachment and restore the right-of-way to its former condition at the expense of the permittee. If the permittee fails to remove the encroachment as directed, the director may remove it and collect the cost of removal from the permittee, together with costs and expenses in enforcing collection.

3. The director shall refuse a permit when the location or the nature of the growth above or below ground of the kind of tree proposed will impede or inconvenience public travel, disturb the right-of-way, interfere with the construction or maintenance of necessary facilities, or interfere with existing pipelines, utility installations, or other facilities within the right-of-way.

B. Trimming or removal.

1. Trimming or removal of trees is permitted only when authorized by permit.

2. When a tree is removed under authority of a permit, the permittee shall take out the entire stump for a distance of at least two feet below the ground surface and shall backfill and tamp the hole. He or she shall remove all debris from the site and restore the right-of-way to its former condition. (1991 code § 15-1.14)

11.05.150 Hedges, plantings and fences.

A. Restrictions.

1. No person may plant or maintain a hedge, shrub or other planting, or fence or similar structure, except as provided in PHMC § 11.05.160, in a right-of-way without a permit.
2. No hedge, shrub or other planting, or fence or similar structure shall be maintained across an existing walkway in a sidewalk area or shoulder. The purpose of this restriction is to keep a walkway free for pedestrian and other lawful public travel without interference with vehicular travel. No encroachment is permitted which obstructs or denies pedestrian or other lawful travel within the limits of the right-of-way of a public highway or impairs adequate sight distance for safe pedestrian or vehicular traffic.

B. Maintenance. The permittee or property owner shall maintain the hedge, shrub and other planting, or fence or similar structure used for landscaping purposes in a neat and orderly condition at all times. If the encroachment is not so maintained or is located in violation of subsection A of this section, the director may order the permittee or property owner to remove the encroachment and restore the right-of-way to its former condition at the expense of the permittee or property owner. (1991 code § 15-1.15)

11.05.160 Lawn or ground cover.

A. It is lawful for a person to plant and maintain a lawn or similar ground cover of grass of a type not prohibited by law within the right-of-way without a written permit. However, the lawn or ground cover may not extend into the traveled way nor into the drainage ditches, gutter, or other drainage facilities.

B. The general public may not be denied the use of a planted area for pedestrian travel or other lawful use. The city may use the planted area for any purpose and may issue a permit to an applicant to go on the planted area to perform work or otherwise encroach under this chapter. If the lawn or ground cover is damaged or disturbed in the course of an authorized encroachment, the permittee is responsible for the replacement unless the permit specifically states otherwise. (1991 code § 15-1.16)

11.05.170 Mailboxes.

Each mailbox shall be placed in accordance with the rules and regulations of the United States Post Office Department. However, no person may place a box in the road right-of-way in a manner which endangers the safety of the traveling public. A permit is not required for placing a mailbox. (1991 code § 15-1.17)

11.05.180 Markings on streets, curbs and sidewalks.

No person, without first obtaining a permit, shall solicit on a commercial or donation basis to place or maintain a number, figure, letter, carving, drawing, design, or other marking on a street, sidewalk, or curb. A temporary marking to identify survey or construction locations is not subject to this chapter. (1991 code § 15-1.18)

11.05.190 Monuments.

A monument of granite, concrete, iron, or other lasting material set for the purpose of locating or preserving the lines or elevation of a public highway or right-of-way, property subdivision, or a precise survey point or reference point shall not be removed or disturbed without permission from the director. Replacement of removed or disturbed monuments is at the expense of the permittee. (1991 code § 15-1.19)

11.05.200 Movement of vehicles.

A. When authorized to move a vehicle or load of size, weight, or other characteristic generally prohibited by law, the permittee shall comply with the general law regulating travel over a road or highway, including posted signs which limit speed or direction of travel, weight which may be placed on a structure, width or height that may be moved, and other restrictions or control of travel on a road or highway.

B. The permittee shall follow the practice and procedure necessary to make safe and convenient the travel of the general public and to keep safe and preserve the road over and on which movement is made. A violation of this section automatically cancels the permit issued to the permittee. (1991 code § 15-1.20)

11.05.210 Pipes and conduits.

A. Minimum cover. The minimum cover over pipes or conduits larger than two and one-half inches installed within the right-of-way is three feet of earth or imported material. Within the public highway, the minimum cover is measured from the existing or planned surface. The director may permit installation of pipes or conduits where three feet of cover cannot be provided because of topography, structures, or other engineering necessity.

B. Beneath pavement. The permittee shall jack, bore or drive utility, service and other small diameter pipes or rigid conduits underneath a paved surface. The permittee may not cut or disturb the paved surface of a road unless specifically authorized in the permit. No tunneling is permitted except as set forth in the permit. (1991 code § 15-1.21)

11.05.220 Drainage.

If the work authorized in a permit interferes with the established drainage, the permittee shall provide for proper drainage approved by the director. (1991 code § 15-1.22)

11.05.230 Poles or obstructions.

When the location or position of a pole or obstruction makes accentuation of its visibility to vehicular traffic necessary, the director may require that the pole or obstruction be painted or equipped with reflectors or other aids to visibility prescribed or authorized by the Public Utilities Commission or the Department of Public Works of the State of California, at the expense of the permittee. (1991 code § 15-1.23)

11.05.240 Poles and transmission line carriers.

A. Clearances and types in the construction of poles and transmission line carriers shall meet rules, regulations and orders of the Public Utilities Commission and other public agencies having jurisdiction.

B. No guy wires may be attached to trees without specific authorization in the permit. Guy wires may not be attached to girdle the tree or interfere with its growth. Guy wires may not be below the minimum elevation above the ground prescribed in the rules, orders and regulations of the Public Utilities Commission.

C. The permittee shall remove and keep clear all vegetation on the right-of-way within a radius of at least five feet of poles when ordered by the director.

D. When a pole, guy, stub, or similar timber is removed and not replaced, the entire length shall be removed from the ground and the hole backfilled and compacted. (1991 code § 15-1.24)

11.05.250 Relocation or removal.

If future construction or maintenance work on a public right-of-way requires the relocation or removal of installations or encroachments in the right-of-way, the permittee owning or maintaining the installations or encroachments shall remove them at his or her sole expense. When removal is required, the director shall give the permittee a written demand specifying the place of relocation, or that the installations or encroachments must be removed from the right-of-way, and specifying in the demand a reasonable time within which the encroachment must be removed or relocated. If the permittee fails to comply with instructions, the city may remove or relocate the encroachment at the expense of the permittee. (1991 code § 15-1.25)

11.05.260 Safety devices and measures.

A. In the conduct of the work of an encroachment authorized by a permit, the permittee shall provide and maintain the lights, barriers, warning signs, patrols, watchmen and other safeguards necessary to protect the traveling public. An omission to specify in the permit what protective measures or devices must be provided does not excuse the permittee from complying with all regulations and ordinances for adequately protecting the safety of the traveling public. If the director finds that suitable safeguards are not provided, the city may provide the safeguards considered necessary or may cancel the permit and restore the right-of-way to its former condition, all at the expense of the permittee.

B. A permittee making an excavation or leaving any obstruction on the right-of-way shall maintain lights at each end of the excavation or obstruction, at not more than 50-foot intervals along the excavation or obstruction, from one-half hour before sunset of each day to one-half hour after sunrise on the next day, until the excavation is refilled, or the obstruction removed and the right-of-way made safe for use. In addition, reflectorized warning signs conforming to the requirements of the California Division of Highways shall be placed 200 and 400 feet from each excavation or obstruction in a position adequate to warn public traffic.

C. The warning signs, lights and other safety devices shall conform to the requirements of state law and regulations. (1991 code § 15-1.26)

11.05.270 Interference with use.

The permittee shall plan and execute the work to cause the least interference with the safe and convenient travel of the general public. At no time shall a public highway be closed or its use denied to the general public without the written permission of the director, nor shall use of private property be interfered with unreasonably without the consent of the owner. (1991 code § 15-1.27)

11.05.280 Right of lawful use.

A permit granted under this chapter does not annul the right of the city or a person entitled to use that part of the public right-of-way for a purpose for which it may be lawfully used. No part of a public highway may be unduly obstructed at any time. (1991 code § 15-1.28)

11.05.290 Exceptions.

This chapter does not apply to an officer or employee of the city in the discharge of his or her duties. (1991 code § 15-1.29)

11.05.300 Emergency work authorization.

This chapter does not prevent a person from performing emergency maintenance on a pipe or conduit lawfully on or under a right-of-way, or from making an emergency use or encroachment necessary to preserve life or property when an urgent necessity arises. However, the person making an emergency use or encroachment of a right-of-way shall apply for a written permit within 10 calendar days, beginning with the first business day the city offices open. A person requiring an emergency use or encroachment shall first notify the director. During the hours the city offices are closed, notice shall be given to the police department. (1991 code § 15-1.30)

11.05.310 Sign encroaching over a street declared nuisance.

A. A sign which encroaches upon a public street or right-of-way without a permit is declared to be a public nuisance and the director is directed to remove each sign which exists in violation of this section. The director may, but is not required to, give notice to the owner of the sign. Upon removal, the city shall store the sign and at the expiration of 15 days after removal, if the sign is not recovered, the sign is considered abandoned and the city may dispose of it without liability. The city may impose a service charge in such amount fixed by res-

olution to defray the costs of removal and storage. If the chief building official removes a sign, the owner of the sign may recover it by paying the service charge.

B. Each person who erects a sign subject to removal under this section is jointly and severally liable for the service charge. The city has a lien upon the sign for the cost of removal and may keep possession of the sign until the owner redeems it by paying the service charge. (Amended during 2005 recodification; 1991 code § 15-1.31)

Chapter 11.10

BIDDING ON PUBLIC PROJECTS

Sections:

- 11.10.010 Purpose – City subject to Uniform Construction Cost Accounting Act.
- 11.10.020 Definitions.
- 11.10.030 Implementation by director – Delegation.
- 11.10.040 Public projects – Work and contracts.
- 11.10.050 Contractor list and construction trade journals.
- 11.10.060 Informal bidding procedures.
- 11.10.070 Formal bidding procedures.
- 11.10.080 Rejection of bids – Options – No bids.
- 11.10.090 Cost accounting.
- 11.10.100 Emergency procedure.

11.10.010 Purpose – City subject to Uniform Construction Cost Accounting Act.

The purpose of this chapter is to provide for an alternative method for the bidding of public works projects, as authorized by Public Contract Code section 22000 and following.

The city council elects to become subject to the California Uniform Construction Cost Accounting Act, the procedures set forth in the Act, and to the California Uniform Public Construction Cost Accounting Commission's policies and procedures.

All city departments are subject to this chapter. (Public Contract Code (PCC) §§ 22001 and 22030.) (Ord. 770 § 1, 2003; 1991 code § 2-56.1)

11.10.020 Definitions.

A. *Commission* means the California Uniform Construction Cost Accounting Commission established under Public Contract Code section 22010.

B. *Director* means the director of public works and community development.

C. *Facility* means a building, plant, structure, real property, street, highway or other public work improvement.

D. *Formal bidding procedures* means those procedures applicable to a public project of more than \$100,000, as set forth in PHMC § 11.10.070.

E. *Informal bidding procedures* means those procedures applicable to a public project of \$25,000 to \$100,000, as set forth in PHMC § 11.10.060.

F. *Public project* means any of the following:

1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition or repair work involving any publicly owned, leased, or operated facility; or
2. Painting or repainting of any publicly owned, leased or operated facility.

Public project does not include maintenance work. Maintenance work includes: (1) routine, recurring, and usual work for the preservation or protection of any publicly owned or operated facility for its intended purposes; (2) minor repainting; (3) resurfacing of streets and highways at less than one inch; or (4) landscape maintenance. (PCC § 22002.)

G. *Uniform Public Construction Cost Accounting Act or the Act* means the Act set forth at Public Contract Code section 22000 and following, which provides an alternative method for the bidding of public works projects. (Ord. 770 § 1, 2003; 1991 code § 2-56.2)

11.10.030 Implementation by director – Delegation.

A. Implementation. The director is responsible for implementing this chapter. The director shall prepare written policies to implement this chapter.

B. Delegation. The city council delegates to the director or his or her designee the authority to:

1. Approve plans, specifications and working details for all public projects, under Public Contract Code section 22039; and
2. Award contracts for \$25,000 or less, as long as the project is in the budget, the contract is approved as to form by the city attorney and the project is in accordance with this chapter. (Ord. 770 § 1, 2003; 1991 code § 2-56.3)

11.10.040 Public projects – Work and contracts.

A. Twenty-five thousand dollars or less. A public project of \$25,000 or less may be performed by the employees of the city by force account, by negotiated contract or by purchase order. A contract or purchase order may be signed by the director and must be approved as to form by the city attorney. (See PHMC § 11.10.030.B.)

B. One hundred thousand dollars or less. A public project of between \$25,000 and \$100,000 may be let to contract by the informal bidding procedures set forth in PHMC § 11.10.060.

C. More than \$100,000. A public project of more than \$100,000 shall be let to contract by the formal bidding procedures set forth in PHMC § 11.10.070, except as otherwise provided in the Act or in this chapter.

D. No project splitting. It is unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this chapter. (PCC §§ 22032 and 22033.) (Ord. 770 § 1, 2003; 1991 code § 2-56.4)

11.10.050 Contractor list and construction trade journals.

A. Contractor list. The director shall maintain a list of qualified contractors eligible to submit bids on informal contracts awarded by the city. The contractors shall be identified according to categories of work. Minimum criteria for development and maintenance of the list of contractors shall be determined by the commission. A contractor wishing to be on the list must first submit a complete application on a form provided by the city. (PCC § 22034.)

B. Construction trade journals. The commission determines the appropriate construction trade journals (including builders' exchanges) which shall receive notice of all informal and formal construction contracts being bid for work within Contra Costa County. (PCC §§ 22034, 22036 and 22037.) (Ord. 770 § 1, 2003; 1991 code § 2-56.5)

11.10.060 Informal bidding procedures.

A public project of between \$25,000 and \$100,000 may be let to contract by the informal bidding procedures in this section.

A. Notice inviting bids. The director shall mail a notice inviting informal bids to all contractors on the list for the category of work being bid or all construction trade journals specified by the commission, or both. However, the notice shall be sent only to the construction trade journals if:

1. The product or service is proprietary in nature such that it can only be obtained from a certain contractor or contractors; or
2. There is no list of qualified contractors maintained by the city for the particular category of work to be performed.

The city, in its discretion, may notify additional contractors, construction trade journals, or builders' exchanges.

The notice shall be mailed not less than 10 calendar days before bids are due. The notice shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

B. Opening of bids and award of contract. At the time provided in the notice, all bids timely received shall be opened. Unless all bids are rejected, the contract shall be awarded to the lowest responsible bidder.

The city manager is authorized to award contracts up to \$100,000 as long as the project is in the budget and the contract is approved as to form by the city attorney. The city manager may approve a project in an emergency situation when funds are available and the contract is approved as to form by the city attorney. (See also PHMC § 11.10.100, Emergency procedure.) If a project between \$25,000 and \$100,000 is not in the budget and is not an emergency, the contract is awarded only by the city council.

If all bids received are greater than \$100,000, the city council may award the contract at \$110,000 or less to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable. The council must act by passing a resolution, with a four-fifths vote. If the bids are greater than \$110,000, the project must be rebid under the formal bidding procedures below. (PCC § 22034.) (Ord. 770 § 1, 2003; 1991 code § 2-56.6)

11.10.070 Formal bidding procedures.

A. General. A public project of more than \$100,000 shall be let to contract by the formal bidding procedures.

B. Notice. The notice shall state the time and place for receiving and opening sealed bids and distinctly describe the project. The notice shall be:

1. Published in a newspaper of general circulation in the city at least 14 calendar days before the bid opening date; and
2. Mailed to all construction trade journals identified under PHMC § 11.10.050 at least 30 calendar days before the bid opening date.

The city may give any other notice it deems proper. (PCC § 22037.)

C. Opening of bids and award of contract. At the time provided in the notice, all bids timely received shall be opened. Unless all bids are rejected, the contract shall be awarded to the lowest responsible bidder. The contract is awarded by resolution of the city council. (Ord. 770 § 1, 2003; 1991 code § 2-56.7)

11.10.080 Rejection of bids – Options – No bids.

A. Rejection of bids. In its discretion, the city may reject any bids presented. If all bids are rejected after the first invitation of bids, the city may re-evaluate its cost estimates of the project and either:

1. Abandon the project;
2. Re-advertise for bids; or
3. Have the project done by force account without further complying with this chapter. In electing this option, the city council shall first adopt a resolution by a four-fifths vote, declaring that the project can be performed more economically by the employees of the city.

B. Options. If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the city may accept the one it chooses.

C. No bids received. If no bids are received through the formal or informal procedure, the project may be performed by negotiated contract or by the employees of the city by force account, without further complying with this chapter. (PCC § 22038.) (Ord. 770 § 1, 2003; 1991 code § 2-56.8)

11.10.090 Cost accounting.

Whenever the city elects to have its own forces perform work on any public project, the city shall follow cost accounting procedures established by the commission.

The commission may review the city's accounting procedures whenever it receives evidence that work:

A. Is to be performed by the city forces after rejection of all bids, claiming work can be done less expensively by the city;

B. Exceeds the force account limits;

C. Has been improperly classified as maintenance work. (PCC §§ 22017, 22019 and 22042.) (Ord. 770 § 1, 2003; 1991 code § 2-56.9)

11.10.100 Emergency procedure.

In case of emergency when repair or replacements are necessary, the city may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the director, by contractor, or by a combination of the two. In any such emergency, if notice for bids will not be given, the city shall comply with the procedures in Public Contract Code section 22050 (Emergency Contracting Procedures). These procedures require, before any emergency action is taken, that the city council authorize the action by a four-fifths vote and make a finding based on substantial evidence that: (A) the emergency will not permit a delay resulting from the competitive solicitation for bids, and (B) the action is necessary to respond to the emergency. The council must also review the action at every regular meeting until the action is terminated. (PCC §§ 22035, 22050.) (Ord. 770 § 1, 2003; 1991 code § 2-56.10)

Chapter 11.15

UNDERGROUND UTILITIES

Sections:

Article I. General Provisions

- 11.15.010 Findings and purpose.
- 11.15.020 Definitions.
- 11.15.030 Waiver.
- 11.15.040 Exceptions.

Article II. Underground Utility Zones

- 11.15.050 Purpose.
- 11.15.060 Scope.
- 11.15.070 Underground utility zones created.
- 11.15.080 Proceedings for determination.
- 11.15.090 Hearing.
- 11.15.100 Allocation of costs and responsibilities.
- 11.15.110 Responsibility of government agency.
- 11.15.120 Notice to utility and property owners.
- 11.15.130 Compliance and installation.

Article III. Alternate Procedure for Conversion

- 11.15.140 Failure to install facilities.
- 11.15.150 List of nonconverting property owners.
- 11.15.160 Notice to property owners.
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- 11.15.200 Report of costs.
- 11.15.210 Assessments.

Article IV. Construction Standards

- 11.15.220 Compliance.
- 11.15.230 Transformers.

Article I. General Provisions

11.15.010 Findings and purpose.

The council finds that the public necessity, safety and general welfare require the installation underground of facilities and the conversion of these facilities from overhead to underground. (1991 code § 16-1.1)

11.15.020 Definitions.

As used in this chapter:

Facility means and includes poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances and all other attachments and appurtenances used or useful in supplying electric, communication or similar or associated service.

Service means and includes, but is not limited to, the product of an electrical transmission device such as electrical energy, television and telephone communications through continuous conductive material.

Underground utility zone means an area in the city within which all facilities are required to be installed underground.

Utility means a person supplying electric, communication, or similar or associated service by means of electrical materials or devices. (1991 code § 16-1.2)

11.15.030 Waiver.

A. Circumstances. The council may waive the requirements that facilities be located underground under these circumstances:

1. In an industrial subdivision after recommendation by the planning commission, when the council finds that a waiver is necessary or desirable to obtain the objectives of health, safety and general welfare and is in the public interest.
2. Upon application by a person and a showing to the satisfaction of the city that:
 - a. Installation underground involves a threat or danger to persons or property and cannot be accomplished feasibly within applicable safety regulations; or
 - b. Installation underground involves an unnecessary or unusual hardship.

B. Procedure. A person who desires a waiver shall file an application with the city on a form prescribed by it. The application shall set forth reasons why the exception should be granted. The city may require the applicant to provide supporting information, including reports relating to technical and economic aspects of construction and development prepared by a qualified person.

C. Imposed conditions. In granting a waiver of underground requirements under subsection A of this section, the council may impose such conditions as it considers necessary or desirable in the public interest. (1991 code § 16-1.3)

11.15.040 Exceptions.

This chapter does not apply to the following kind of facility:

- A. A facility used exclusively for a police and fire alarm box or similar municipal equipment;
- B. An overhead wire attached to the exterior surface of a building and extending from one location on the building to another location on the same building;
- C. A radio antenna and its associated equipment and supporting structure used for furnishing communication service;
- D. Equipment appurtenant to underground facilities such as a surface-mounted transformer (except as otherwise required in accordance with PHMC § 11.15.230), a pedestal-mounted terminal box and meter cabinet, and a concealed duct;
- E. Wires (exclusive of supporting structures) crossing any portion of an underground utility zone connecting to buildings on the perimeter of such portion, when such wires originate in an area from which poles and wires and associated overhead structures are not prohibited. (1991 code § 16-1.4)

Article II. Underground Utility Zones

11.15.050 Purpose.

It is the purpose of this article to provide for the orderly removal of existing overhead facilities and the construction of new underground facilities by providing a procedure by which the council may create an underground utility zone upon finding that it is in the public interest to do so. (1991 code § 16-2.1)

11.15.060 Scope.

The council finds that the conversion of existing facilities from overhead to underground is most desirable and can be accomplished most practically in commercial and business districts, and that to require conversion in residential districts at the same time would pose financial hardship on the utilities and property owners. (1991 code § 16-2.2)

11.15.070 Underground utility zones created.

The city council shall fix the requirements for construction of, or conversion to, underground facilities by the creation of underground utility zones as provided in this article. (1991 code § 16-2.3)

11.15.080 Proceedings for determination.

A. The council may initiate proceedings to determine whether or not to create an underground utility zone for the purpose of requiring existing overhead distribution facilities to be replaced with underground distribution facilities along public streets, roads and ways. The council shall consult with each affected utility to determine whether or not undergrounding of utilities is in the general public interest for one or more of the following reasons:

1. Undergrounding will avoid or eliminate an unusually heavy concentration of overhead distribution facilities;
2. The street, road, or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;
3. The street, road, or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public.

B. The resolution shall generally describe the boundaries of the area proposed to be included in the underground utility zone. (1991 code § 16-2.4)

11.15.090 Hearing.

A. Notice. When the council determines to hold a public hearing, the director shall notify property owners and utilities in the proposed area by mailing notice of the time and place of hearing. The notice shall be mailed at least 15 days before the date of the hearing.

B. Form. The hearing is open to the public and the council may continue it from time to time. At the hearing all persons interested shall be given an opportunity to be heard.

C. Decision.

1. At the close of the public hearing, the council shall determine whether or not undergrounding is in the general public interest for one or more of the following reasons:
 - a. Undergrounding will avoid or eliminate an unusually heavy concentration of overhead distribution facilities;
 - b. The street, road, or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;

- c. The street, road, or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public.
2. The decision of the council is final. If the council finds that facilities should be installed underground, the council shall adopt a resolution declaring the formation of the underground utility zone and ordering the installation of existing overhead distribution facilities underground. The resolution shall describe the area of the underground utility zone and fix a reasonable time within which the work must be done. (1991 code § 16-2.5)

11.15.100 Allocation of costs and responsibilities.

A. The utility shall furnish and pay the costs of providing that portion of the underground facilities required to be furnished by it under its rules, regulations and tariffs on file with the Public Utilities Commission of the State of California.

B. The property owner is responsible for providing the underground facilities necessary to receive utility service between the underground junction box or splicing chamber of the supplying utility and the service facilities in the structure served, subject to applicable rules, regulations and tariffs of the utility on file with the Public Utilities Commission of the State of California. (1991 code § 16-2.6)

11.15.110 Responsibility of government agency.

The city and each federal, state and local governmental agency and district are responsible for the removal of their police and fire alarm circuits or other equipment at their own expense from the facilities required to be removed. The responsible agency shall complete this work in sufficient time to enable the utility and property owner to remove the facilities for which they are responsible within the time specified in the resolution ordering removal. (1991 code § 16-2.7)

11.15.120 Notice to utility and property owners.

A. Within 30 days after adoption of the resolution creating the underground utility zone and ordering removal, the director shall give notice to the utility affected and each property owner within the area designated in the resolution.

B. The notice shall:

1. State that the council has adopted the resolution creating the underground utility zone;
2. Describe the area within the underground utility zone;
3. Advise each property owner of the necessity that if he or she or the person occupying the property desires to continue to receive service, he or she or the occupant shall provide all necessary facility changes on the premises to receive service;
4. State the time within which the work must be completed.

C. The director shall have a copy of the notice and resolution creating the underground utility zone and ordering removal mailed to each affected utility and to each property owner as known to him or her or as shown on the last equalized assessment roll. (1991 code § 16-2.8)

11.15.130 Compliance and installation.

Each property owner and each utility shall comply with the resolution order and install the facilities for which he or she is responsible within the time prescribed in the resolution. (1991 code § 16-2.9)

Article III. Alternate Procedure for Conversion

11.15.140 Failure to install facilities.

If a person other than a utility does not install the facilities for which he or she is responsible as directed or within the time prescribed, the city may do the work and assess the cost against the property in the manner prescribed in this article. (1991 code § 16-3.1)

11.15.150 List of nonconverting property owners.

A. Preparation. When the time for completing the conversion to underground expires, the director shall make an engineering study and prepare a list of each property owner who has not installed underground the facilities necessary to receive service from the utilities.

B. Filing of list with council. The director shall file the list and report prepared under subsection A of this section with the council. The council may adopt a resolution directing the institution of proceedings under this article. (1991 code § 16-3.2)

11.15.160 Notice to property owners.

A. The director shall have a notice prepared in substantially the following form:

NOTICE TO INSTALL FACILITIES UNDERGROUND

Notice is given to: _____
(name) (address)

that on _____, 20____, the city council of the City of Pleasant Hill, adopted a resolution creating an underground utility zone and declaring that facilities shall be installed underground and directing that the work be completed no later than _____. Thereafter, the council did on _____, adopt a resolution directing the proceedings to be instituted under PHMC Chapter 11.15, Article III by which the city would do the work and assess the cost against the land and that the cost would be a lien upon the property until paid. Reference is made to these resolutions for further particulars.

The city has made an estimate of the cost of doing the work based upon an average installation. The estimated cost is \$ _____. However, this is an estimate only and no detailed study has been made of the cost for your particular property.

Each property owner having an objection to the proposed estimate of cost for installation of underground facilities is notified to attend the meeting of the city council to be held on _____, when their objections to this cost estimate will be heard and given due consideration.

(Date)

Director of Public Works and Community Development

B. Publication, posting and mailing.

1. The director shall have a copy of the notice posted conspicuously in front of or on the property affected in any manner most likely to give actual notice to the property owner. The director shall also have the notice published once in a newspaper of general circulation printed and published in the county and mailed to the property owner at his or her last known address or as shown on the last equalized assessment roll.
2. The posting, publication and mailing shall be complete at least 10 days before the day set for the hearing. (1991 code § 16-3.3)

11.15.170 Action of council.

At the time set for hearing the council shall hear all objections and may continue the hearing from time to time. Upon the conclusion of the hearing, the council shall allow or overrule each or any of the objections, after which it may order the work performed. (1991 code § 16-3.4)

11.15.180 Method of performing work.

The city may do the work with its own forces or may let a contract for the work. (1991 code § 16-3.5)

11.15.190 Authority to enter property and perform work.

The city and each authorized agent or employee of the city may enter upon the private property for the purpose of performing the work of installing underground facilities required by resolution of the council. (1991 code § 16-3.6)

11.15.200 Report of costs.**A. Posting.**

1. The director shall file an engineer's report showing the costs of doing the work on each separate parcel within 30 days after the work is completed.
2. Before submitting the report to the council, a copy of it shall be posted for at least three days at the City Hall together with a notice that the report will be submitted to the council for confirmation.

B. Hearing. At the time fixed for considering the report, the council shall hear objections of each property owner liable for the cost of the work. The council may make such modifications as it considers necessary. Following the hearing, the council shall confirm the report. (1991 code § 16-3.7)

11.15.210 Assessments.

A. Special assessment and lien. The amount of the cost for removing the overhead facilities and installing the underground facilities upon each of the parcels of property listed in the report as confirmed is a special assessment against the respective parcel of property and is a lien on the property for the amount of the assessment.

B. Assessments to county auditor. The city manager shall send a copy of the report as confirmed to the county auditor before the next succeeding August 10th, together with the request that the auditor enter the amounts of the assessment against the parcel of property as it appears on the assessment roll.

C. Collection. The tax collector shall include the amount of the assessment on each tax bill for taxes levied against the parcel of property. The amount of the assessment shall be collected at the same time and in the same manner as county taxes are collected. The assessment is subject to the same penalty and the same procedure as in case of delinquency as provided for county taxes.

D. Assessment procedure. The laws which govern the levy, collection, enforcement, cancellation and refund of county taxes apply to the special assessment levied under this chapter. (1991 code § 16-3.8)

Article IV. Construction Standards

11.15.220 Compliance.

A. A person who installs facilities underground shall comply with all applicable building and electrical codes, safety regulations and orders and the rules of the Public Utility Commission of the State of California.

B. A person who installs facilities underground shall comply with the encroachment regulations of the city. (1991 code § 16-4.1)

11.15.230 Transformers.

A. Landscaping. The transformers shall be landscaped in a manner approved by the director. The council may require the transformer to be flush with or below the official sidewalk or curb grade.

B. Location. Each transformer shall be located in a manner so that it harmonizes with the area surrounding it. (1991 code § 16-4.2)

Chapter 11.20**PARADES**

Sections:

- 11.20.010 Definitions.
- 11.20.020 Permit required.
- 11.20.030 Application.
- 11.20.040 Issuance of permit.
- 11.20.050 Contents of permit.
- 11.20.060 Notification of officials.
- 11.20.070 Revocation.
- 11.20.080 Appeal.
- 11.20.090 Routes.
- 11.20.100 Regulations.
- 11.20.110 Compliance.
- 11.20.120 Exceptions.

11.20.010 Definitions.

As used in this chapter:

Parade means and includes motorcade, march, procession, or walk consisting of people, animals, vehicles, or a combination thereof. (1991 code § 5-2.1)

11.20.020 Permit required.

No person may engage in the following activity without a permit:

- A. Conduct a parade upon a public street, sidewalk or alley;
- B. Participate in a parade for which a permit has not been issued;
- C. Participate in a permitted parade in violation of the terms of the permit;
- D. Participate in a permitted parade without the consent of the permittee; or
- E. Interfere with the progress or orderly conduct of a permitted parade. (1991 code § 5-2.2)

11.20.030 Application.

A person who desires a permit to conduct a parade shall apply for a permit at least 60 days in advance of the date of the proposed parade. The application shall be filed with the city manager on a form supplied by the city. If good cause is shown, the city manager may consider an application filed less than 60 days before the parade date. The application shall contain the following information:

- A. Name and address of the applicant, the sponsoring organization and the person responsible for the conduct of the parade;
- B. Purpose of the parade, the estimated number of persons to participate and to attend, and the number and types of vehicles and animals to participate;
- C. Method of notifying participants of the terms and conditions of the permit prior to the parade;

- D. Date the parade is to be conducted and the hours it will begin and end;
- E. Description of the individual floats, marching units, vehicles and bands, and the number, types and locations of all loudspeakers and amplifying devices to be used;
- F. Maximum length of the components of the parade in miles and fractions and the interval of space to be maintained between units of the parade;
- G. A statement as to whether the parade will occupy all or only a portion of the width of the streets to be traversed;
- H. The proposed parade route;
- I. Such other information that the city manager considers necessary. (1991 code § 5-2.3)

11.20.040 Issuance of permit.

- A. The city manager shall issue a parade permit, conditioned upon the applicant's written agreement to comply with the terms of the permit, unless he or she finds that:
 - 1. The time and the size of the parade will disrupt, to an unreasonable extent, the movement of other traffic or would substantially inconvenience the persons who would normally use the street;
 - 2. The parade is of a size or nature that requires the diversion of so great a number of police officers of the city to properly police the line of movement and contiguous areas that allowing the parade would unreasonably impair the normal police protection of the city;
 - 3. The parade will interfere with another parade for which a permit has been issued;
 - 4. The conduct of the parade is likely to cause injury to persons or damage to property, provoke disorderly conduct, or create a disturbance of the peace;
 - 5. The congregation of persons, animals and vehicles in the area will unreasonably interfere with proper fire and police protection of the city or will jeopardize the public safety or welfare;
 - 6. The parade will unduly interfere with the orderly operation of the parks, hospitals, churches, schools, or other public or quasi-public institutions in the city;
 - 7. The applicant refuses to comply with all conditions of the permit.
- B. If the city manager disapproves the application, he or she shall notify the applicant of his or her decision within 10 days after the application is filed. The decision is final 10 days from the date the notice of the denial is given. (1991 code § 5-2.4)

11.20.050 Contents of permit.

In each permit the city manager shall specify, as conditions to the issuance of the permit, the following:

- A. Assembly area and time of assembly;
- B. Starting time;
- C. Minimum and maximum speeds;
- D. What portions of streets to be traversed may be occupied by the parade;
- E. Maximum number of platoons or units and maximum and minimum intervals of space to be maintained between units of the parades;
- F. Maximum length of the parade in miles and fractions;

- G. Disbanding area and disbanding time;
- H. Number of persons required to monitor the parade;
- I. Number and types of vehicles;
- J. The material and maximum size of sign, banner, or placard and carrying device for each;
- K. Requirements and instructions for removal of litter and debris created in connection with the parade;
- L. Such other requirements as are found by the city manager to be reasonably necessary for the protection of persons or property. (1991 code § 5-2.5)

11.20.060 Notification of officials.

Upon granting a parade permit, the city manager shall send a copy of the permit to the:

- A. City council;
- B. Chief of police;
- C. Director of public works and community development. (1991 code § 5-2.6)

11.20.070 Revocation.

A parade permit may be summarily revoked by the city manager at any time if he or she determines that:

- A. By reason of disaster, public calamity, riot or other emergency, the safety of the public or property requires such revocation;
- B. A term, condition, restriction, or limitation of the parade permit has been violated or is being violated;
- C. Due to changed circumstances one or more of the standards specified in this chapter have not been satisfied. Notice of the revocation shall be delivered in writing to the permittee by personal service or certified mail. The revocation takes effect immediately upon giving such notice and is final 10 days after the notice of revocation is given. (1991 code § 5-2.7)

11.20.080 Appeal.

A person aggrieved by denial of an application or revocation of a permit may appeal to the city council. A person appealing the action shall file a written notice of appeal concisely stating the facts of the case and the grounds of appeal with the city manager within 10 days after the notice of the denial or revocation is given. Upon receiving the notice of appeal, the city manager shall set the matter for hearing and shall give the person appealing written notice of the time and place of hearing at least 10 days before the hearing. The hearing shall be held within 30 days of the date the notice of appeal is filed. The decision of the city council after the appellant has had an opportunity to be heard is final. (1991 code § 5-2.8)

11.20.090 Routes.

A parade permit applicant shall work with the police department to establish a parade route that will cause the least disruption of traffic, the least interference with proper fire and police protection and the least jeopardy to the public safety and welfare. Each parade shall assemble, follow the route and disband in accordance with the approved route. (Amended during 2005 recodification; 1991 code § 5-2.9)

11.20.100 Regulations.

Each parade shall comply with the following regulations:

- A. The materials used in the construction of floats used in the parade shall be of fire-retardant materials and shall be subject to such requirements concerning fire safety as may be determined by the fire chief.
- B. The permittee shall advise all participants in the parade, orally or in writing, of the terms and conditions of the permit before the parade begins.
- C. The parade shall move at a fixed rate of speed. (1991 code § 5-2.10)

11.20.110 Compliance.

Each permittee shall comply with the terms, conditions and provisions of the permit and with the laws of the State of California and the city. Each permittee is responsible for ensuring that the person in charge of the parade carries the parade permit at all times during the conduct of the activity. (1991 code § 5-2.11)

11.20.120 Exceptions.

This chapter does not apply to:

- A. A funeral procession, a single direct movement from a mortuary or church to the place of burial of a human body, under the direction of an authorized funeral director;
- B. A governmental agency acting within the scope of its functions;
- C. A group of students participating in an educational activity under the immediate supervision of the school authority;
- D. A spontaneous event occasioned by news or affairs coming into public knowledge within three days of the parade, provided organizers give the city manager at least 24 hours' notice and follow one of the three suggested parade routes. (1991 code § 5-2.12)