

# Ordinance

Version 3.2 released on 8/3/21

Use for all Ordinances including: TRO, Budget, Zoning, Declarations, Trust Indentures, etc.



## CITY COUNCIL USE ONLY

Date Received: \_\_\_\_\_  
Committee Date: \_\_\_\_\_  
1<sup>st</sup> Agenda Date: \_\_\_\_\_

Tracking #: \_\_\_\_\_  
Committee: \_\_\_\_\_  
Hearing Date: \_\_\_\_\_  
2<sup>nd</sup> Agenda Date: \_\_\_\_\_

## CITY CLERK USE ONLY

☐ Scanned Date: 05.31.2023  
☐ Posted Item #: 2305\_01106

**All department items requiring Council approval must be submitted through the Mayor's Office.**

## Primary Details

Dept. Tracking No.	Board Approval	Other Board Name	City Council Approval <input checked="" type="radio"/> Yes <input type="radio"/> No
Department Streets and Stormwater	Contact Name <u>for</u> Gary McColpin	Email GMcColpin@cityoftulsa.org	Phone 918-576-5514
Subject (Description) Title 11, Chapter 12, Amending ROW permit fees and other fees	Ordinance Type Amending Tulsa Revised Ordinances		
Section	Township	Range	Lot
Block	Address		BA / CT Number
Amending Ord. No.	TRO Title No. 11 e.g. 43	TRO Subtitle e.g. G	Property/Non-Property
Council District	Zoning No.	PUD No.	Planning District

## Budget

Funding Source(s)

**TOTAL:**

Enter the funding source(s) using the appropriate Munis funding format: Org (Allocation Code)-Object-Amount (1001211-531401-\$10.00) or Project String-Amount (144104.AbstTitle5413102.6001-4043122-541102-\$30,000.01)

## Approvals

Department: \_\_\_\_\_  
Legal: \_\_\_\_\_  
Board: \_\_\_\_\_  
Mayor: \_\_\_\_\_  
Other: \_\_\_\_\_

Date: 5/19/2023  
Date: MAY 19 XXII  
Date: \_\_\_\_\_  
Date: MAY 31 2023  
Date: \_\_\_\_\_

Policy Statement

Background Information

"Right-of-Way Occupancy" is the process for regulating utilities, contractors and others whose activities will result in excavation or obstruction of the City's streets and sidewalks. Factors like the size and duration of the project, the impact to normal users of the right-of-way, disruption of traffic, injury to City infrastructure, must be considered when calculating the fees imposed on these occupants. The attached is an amendment to Title 11, Chapter 12, setting forth permit fees and other fees for right-of-way occupants.

Provide background information on the requested action.

Summation of the Requested Action

Summarize the pertinent details of the requested action.

Emergency Clause?

- ☒ Yes
- ☐ No

Reason for Emergency Clause

Because right-of-way occupancy is a constant and ongoing activity, and of pressing fiscal importance, this ordinance is presented as an emergency measure.

Explain why you are requesting that the City Council approve this action with an emergency clause.

Processing Information for City Clerk's Office

Post Execution Processing

- ☐ Mail vendor copy (addtl signature copies attached)
- ☐ Must be filed with other governmental entity
- ☐ Addtl governmental entity approval(s) required

Additional Routing and Processing Details

(Published in the Tulsa World,  
\_\_\_\_\_, 2022.)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 11, TULSA REVISED ORDINANCES, ENTITLED "PUBLIC WORKS DEPARTMENT", AMENDING CHAPTER 12, "RIGHTS-OF-WAY OCCUPANCY MANAGEMENT", SECTION 1208, "RIGHTS-OF-WAY CONSTRUCTION PERMITS"; AMENDING SCHEDULE A; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY OF TULSA:

*Section 1. That Title 11, Chapter 12, Section 1208, Tulsa Revised Ordinances, be and the same is hereby amended to read as follows:*

Section 1208. - Rights-of-way construction permits.

A. **Permit Requirement.** To apply for a rights-of-way construction permit, an applicant shall furnish the following:

1. Name of the owner or operator of the facility; and
2. A sketch or drawing of the project; and
3. Dates of the construction activity, the proposed start and stop times and any proposal to temporarily reopen any roadway for any "peak hour" period; and
4. The names of any known subcontractors working on the proposed project under the applicant's responsibility and authority; and
5. Proof of payment of all money due the City for occupancy fees, rights-of-way construction permit fees, cable service fee, thermal service ROW usage fee and any invoiced cost, loss, damage or expense suffered by the City as a result of the applicant's prior construction activity, including but not limited to any emergency action taken by the City; and
6. Evidence that the applicant has obtained the insurance coverage required by Section 1211 of this title; and
7. A traffic control plan in compliance with Subsection 1210.F of this title; and
8. A list of the applicant's emergency providers, including name of company, local contact person, mailing and e-mail address, 24-hour emergency phone number and pager or fax number. This information shall be kept current by written notice to the Public Works Director; and
9. For Major Projects, as defined by Section 1202 of this title, the following may be required:
  - a. **Detailed engineering plans.** The plans shall show the location and area of the proposed project, the locations of all existing and proposed equipment and facilities, the height and/or depth of the proposed equipment and existing facilities and the spatial relationship with any adjacent infrastructure, rights-of-way line, easement, utility and/or other physical features. The plans shall be prepared under the direction of and signed by a registered professional engineer, and shall meet the size and scale as set forth in the Department of Public Works's Standard Design Criteria Manual; and

- b. A copy of the engineering plans in an electronic format acceptable to the Public Works Director; and
  - c. The applicant shall meet with the Public Works Director for a pre-work conference prior to issuance of rights-of-way permits.
- B. **Application and Permit Fees.** Rights-of-way occupants shall be required to pay both application and/or permit fees, as applicable, unless otherwise exempted. Upon submission of a permit application, an application fee of Two Hundred Twenty Dollars (\$220.00) shall be paid to the Public Works Director. This fee is nonrefundable and must be collected before review of the application begins. Upon approval of the rights-of-way construction permit, the applicant shall remit to the Public Works Director a permit fee. This fee shall be calculated based on the following components:
1. **Traffic Disruption Fee.** An arterial street traffic disruption fee shall be charged whenever either the time estimated for project completion indicates a planned arterial street traffic disruption more than five (5) consecutive calendar days in duration or the actual project time has exceeded five (5) consecutive calendar days, as determined by the date from when an arterial street roadway excavation is commenced until the date when the Public Works Director is notified that the ROW excavation has been closed. In the event a disruption fee is payable, its amount shall be determined by multiplying the estimated or actual number of days in excess of five (5) by the traffic count number of vehicles, calculated at eighteen cents (\$0.18) per vehicle, and the length of the obstruction measured in one thousand (1,000) foot increments. (Fee = days x length x # of vehicles x .12). The number of vehicles shall be equal to the number of same lane direction vehicles as measured closest to the excavation location and on the same arterial roadway by the current traffic count map published by the City Traffic Engineer.
  2. **Parking Meter Fee.** A parking meter fee, if applicable, shall be charged and shall be computed as set forth in Title 37, Chapter 5, Section 503.B.
  3. **Degradation Cost.** The permit fee for any project, whether a major project or not, that involves excavation shall also include:  
A degradation cost that is calculated as follows:  
Area of construction + 1' around perimeter of site,  
multiplied by City's actual cost per square foot to restore pavement,  
multiplied by Depreciation Value (20%),  
multiplied by Degradation Percentage as shown in the Pavement Condition Index (PCI), which is kept and updated by the Engineering Services Department of the City of Tulsa.
- ROW occupants which do not have an occupancy permit shall have the following components added to the application and permit fees:
4. **Permit and Licensing System Maintenance Fee.** A surcharge of Two Dollars (\$2.00) shall be charged for each permit to maintain the permit and licensing system; and
  5. **Record Retention Fee.** A surcharge of One Dollar (\$1.00) per page shall be charged for each permit for retention of permits and associated data by microfilming, computer imaging or other method of storage of records; and
  6. **Inspection Fee.** A charge of Nine and 50/100 Dollars (\$9.50) per one hundred (100) feet of project area as defined in the application shall be charged as an inspection fee; and
  7. **Project Plans Review Fee.** A permit fee for a major project shall also consist of a plans review fee of Fifty Dollars (\$50.00) per sheet. The minimum plan review fee is One Hundred Fifty Dollars (\$150.00).
- C. **Permit Terms and Conditions.** Each rights-of-way construction permit shall describe the general location of the permitted project, the size of the obstructed area, the duration of the permit, which shall be based on the amount of time estimated for completion of the permitted activity and any special

conditions or other information deemed relevant by the Public Works Director. A rights-of-way construction permit shall be issued or denied within fifteen (15) days of submission of a completed application and payment of all required fees. In the event of denial, the Public Works Director shall advise the applicant of all steps necessary to secure approval of the permit.

**D. Emergency Permits.**

1. An emergency rights-of-way construction permit is available for projects. Any emergency excavation required to maintain the safety and well being of the general public should be commenced without delay. Notification must be provided to the Public Works Director within two (2) hours of the commencement of the project. This notification shall consist of the following:
  - a. Anticipated date, duration, start and stop time, location (site address if possible), including nearest cross street; and
  - b. Size of the obstruction and work area less any normal traffic control in advance; and
  - c. Applicant's company name; and
  - d. Facility owner's name; and
  - e. Local contact information; and
  - f. General description of the type of construction activity and/or facilities installed.
2. Holders of emergency ROW construction permits shall notify the Public Works Director upon the completion of the project. All persons, including franchisees, engaged in an activity within the arterial rights-of-way not specifically exempt in this section, must notify the Public Works Director that an obstruction will occur.
3. In order to qualify for an emergency ROW construction permit, a permittee must possess a current occupancy permit.

**E. Permit Conditions.** A permittee shall adhere to the following requirements:

1. All current engineering requirements and construction standards as described in Section 1210 of this chapter; and
2. All current rights-of-way construction permits shall be maintained on each work site. All rights-of-way construction permits shall be presented upon request to any representative of the Public Works Director; and
3. Excavation projects are subject to the requirements of Section 1210 of this chapter; and
4. All restoration work required of any roadway pavement by any permit holder shall be performed by the City's Public Works paving cut contractor unless exempted by the Public Works Director. Upon completion of the work and the subsequent removal of the obstruction, the permittee shall be obligated to notify the Public Works Director that the obstruction has been removed.

**F. Failure to Apply.** Any person failing to comply with this section shall be precluded from obtaining any rights-of-way construction permit or performing any further construction within the City's arterial rights-of-way for up to twelve (12) months from the date of notification, in addition to any monetary penalty imposed pursuant to Section 1226 of this chapter.

**G. Renewal.** In the event that a permitted project does not conclude prior to expiration of the rights-of-way construction permit under which it is being performed, the permittee shall apply to the Director for an extension of the permit. The following information shall be submitted:

1. Statement from the permittee indicating the reason for the delay in completion of the project; and
2. Date that the permittee anticipated the project to be completed; and
3. Any applicable permit fees established at the time of issuance of the original permit.

Section 2. That Title 11, Chapter 12, Schedule A, Tulsa Revised Ordinances, be and the same is hereby amended to read as follows:

SCHEDULE A.

**RIGHT-OF-WAY FEE  
ALLOCATED EXPENSES WORKSHEET**

Section No.	Section Description	Historical Expenses						Allocated Expenses				
		1994/1995	1995/1996	1996/1997	1997/1998	1998/1999	% of Allocation to Fee Structure	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999
40711	Public Facilities Maintenance/Operations Administration	\$121,473	\$103,809	\$103,088	\$105,825	\$116,507	20%	\$24,295	\$20,762	\$20,618	\$21,165	\$23,301
40713	Office Support-Public Facilities	\$63,064	\$64,550	\$66,317	\$68,475	\$38,881	20%	\$12,613	\$12,910	\$13,263	\$13,695	\$7,776
40735	Vegetation - ROW	\$ 1,019,172	\$ 1,194,257	\$ 1,220,100	\$ 1,520,658	\$ 1,609,713	75%	\$ 764,379	\$ 895,693	\$ 915,075	\$ 1,140,494	\$ 1,207,285
40737	Tree Removal - ROW	\$ 280,150	\$ 354,867	\$ 358,618	\$ 417,513	\$ 476,064	75%	\$ 210,113	\$ 266,150	\$ 268,964	\$ 313,135	\$ 357,048
40715	Roadside Cleanup				\$ 296,219	\$ 430,731	75%				\$ 222,164	\$ 323,048
40738	Illegal Dumping	\$ 328,702	\$ 387,430	\$ 530,156	\$ 435,196	\$ 290,990	75%	\$ 246,527	\$ 290,573	\$ 397,617	\$ 326,397	\$ 218,243
40734	Roadside Ditching and Maintenance	\$ 377,801	\$ 413,952	\$ 382,260	\$ 762,011	\$ 647,253	30%	\$ 113,340	\$ 124,186	\$ 114,678	\$ 228,603	\$ 194,176
40744	Street Cleaning	\$ 289,112	\$ 532,794	\$ 663,129	\$ 833,375	\$ 934,459	30%	\$ 86,734	\$ 159,838	\$ 198,939	\$ 250,013	\$ 280,338
40011 & 40211	Public Works Director & Asst. public Works Director	\$ 415,514	\$ 513,765	\$ 489,762	\$ 505,935	\$ 539,495	5%	\$ 20,776	\$ 25,688	\$ 24,488	\$ 25,297	\$ 26,975
40511	Engineering Services - Administrative	\$ 350,070	\$ 360,169	\$ 428,859	\$ 727,803	\$ 672,562	10%	\$ 35,007	\$ 36,017	\$ 42,886	\$ 72,780	\$ 67,256
40521	Design Services - Administrative	\$ 118,707	\$ 121,683	\$ 127,088	\$ 138,138	\$ 185,366	10%	\$ 11,871	\$ 12,168	\$ 12,709	\$ 13,814	\$ 18,537
40524	Graphics/CADDs	\$ 404,447	\$ 413,607	\$ 790,333	\$ 499,730	\$ 584,288	20%	\$ 80,889	\$ 82,721	\$ 158,067	\$ 99,946	\$ 116,858
40526	Reproduction Records	\$ 307,406	\$ 319,982	\$ 326,478	\$ 348,932	\$ 414,109	20%	\$ 61,481	\$ 63,996	\$ 65,296	\$ 69,786	\$ 82,822
40531	Field Engineering	\$ 155,970	\$ 159,299	\$ 215,054	\$ 223,594	\$ 212,333	20%	\$ 31,194	\$ 31,860	\$ 43,011	\$ 44,719	\$ 42,467
40532	Construction Inspection	\$ 1,205,475	\$ 1,229,339	\$ 1,253,923	\$ 1,286,324	\$ 1,339,949	20%	\$ 241,095	\$ 245,868	\$ 250,785	\$ 257,265	\$ 267,990

40533	Call Okie	\$ 115,264	\$ 117,049	\$ 97,290	\$ 110,357	\$ 126,697	30%	\$ 34,579	\$ 35,115	\$ 29,187	\$ 33,107	\$ 38,009
40534	Field Surveys	\$ 611,163	\$ 627,293	\$ 661,445	\$ 696,288	\$ 722,683	50%	\$ 305,582	\$ 313,647	\$ 330,723	\$ 348,144	\$ 361,342
40751	Traffic Control	\$ 656,991	\$ 752,400	\$ 730,460	\$ 809,823	\$ 812,457	20%	\$ 131,398	\$ 150,480	\$ 146,092	\$ 161,965	\$ 162,491
	TOTAL							2,411,871.00	2,767,671.00	3,032,395.00	3,642,488.00	3,795,960.00
	Indirects and Overheads x 1.20							\$ 2,894,245.44	\$ 3,321,205.38	\$ 3,638,874.12	\$ 4,370,985.42	\$ 4,555,152.06
	CPI Factor (Jan.)							150.3	154.4	159.1	161.6	164.3
	Jan. (current year) Factor	168.7	Adjusted CPI for Jan. 2000					1.1224	1.0926	1.0603	1.0439	1.0268
	GRAND TOTAL							3,248,564.24	3,628,804.06	3,858,441.63	4,563,027.48	4,677,140.31
	FIVE YEAR AVERAGE	\$ 3,995,135.55										

## CAPITAL COSTS

Section No.	Section Description	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999	% of Allocation to Fee Structure	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999
541 & 5451	Capital Costs	\$6,308,415.00	\$8,060,154.00	\$7,006,494.00	\$8,683,432.00	\$7,841,350.00	87.50%	\$5,519,863.13	\$7,052,634.75	\$6,130,682.25	\$7,598,003.00	\$6,861,181.25
	PRESENT DAY VALUE							\$6,195,614.83	\$7,705,825.66	\$6,500,603.99	\$7,931,826.15	\$7,044,925.60

	5-Year Average =		\$7,075,759. 25	
	Engineering - 15%		\$1,061,363. 89	
	Total Capital		\$8,137,123. 14	

## MISCELLANEOUS COSTS

Section No.	Section Description	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999	% of Allocation to Fee Structure	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999
34011	Telecommunications	90%										\$250,048.00
	Legal											\$ 100,000.00
	Degradation Costs of Boring											\$ 100,000.00

## TOTAL LINEAR FEET OCCUPIED

Right-of-Way Occupants	Linear Feet	
	1 Foot or less	Greater than 1 Foot
Southwestern Bell	488,011	659,721
Valor	91,270	130,000
Bixby	54,300	41,600
ONG	1,300,000	
PSO	200,000	1,800,000



City of Tulsa - Water Lines	1,425,000	608,000
City of Tulsa - Stormwater		200,000
City of Tulsa - Sanitary Sewer	30,000	60,000
Cox Communications	1,700,000	
Trigen		13,000
Brooks Fiber	510,000	
AT&T	102,000	
ACSI	10,000	
MCI	49,000	
IXC	5,000	
Mapco	200	
Sprint	25,800	
To be installed	200,000	
TOTALS	6,190,581	3,512,321

## OCCUPANCY FEE CALCULATIONS

Right-of-Way Management and Operations	\$ 3,995,195.55
Capital Costs	\$ 8,137,123.14
Telecommunications	\$ 250,048.00
Legal	\$ 100,000.00

Degradation costs of Boring	\$ 100,000.00
<b>Total Yearly Right-of-Way Costs</b>	<b>\$ 12,582,366.69</b>

Fee Calculation = (x) \$3,512,321.00 + (0.5)(x) \$6,190,581.00 = \$12,582,366.68

	1.90
x =	\$ 1.90 per foot
0.5 x =	\$ 0.95 per foot

*Section 3. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.*

*Section 4. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.*

*Section 5. EMERGENCY CLAUSE. That an emergency is now declared to exist for the preservation of the public peace, health and safety, by reason whereof this ordinance shall take effect immediately from and after its passage, approval and publication.*

ADOPTED by the Council: \_\_\_\_\_  
Date

\_\_\_\_\_  
Chair of the Council

ADOPTED as an emergency measure: \_\_\_\_\_  
Date

\_\_\_\_\_  
Chair of the Council

OFFICE OF THE MAYOR

Received by the Mayor: \_\_\_\_\_, at \_\_\_\_\_.  
Date Time

G. T. Bynum, Mayor

By \_\_\_\_\_  
Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: \_\_\_\_\_,  
Date

at \_\_\_\_\_.  
Time

\_\_\_\_\_  
Mayor

(Seal)  
ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED:

\_\_\_\_\_  
City Attorney MBS