

CHAPTER 14.04 **PUBLIC PLACES**—APPLICATIONS, PERMITS, AND GENERAL PROVISIONS

14.04.005 Purpose.

It is the purpose of this Chapter to protect the public interest and safety by establishing standards to provide for the orderly administration of private contract work within the public Right-of-way, for the development of private property, and for private encroachments and construction-related activity on public Rights-of-way or Public Places.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.010 Definitions.

For the purposes of this Title 14 ("Title"), the following words shall have the meanings set out in this section:

- (a) **Applicant** means any person making written application for a permit hereunder, except as specifically provided in section 14.25.050.
- (b) **Building or Structure.** In addition to the meaning ordinarily ascribed thereto, includes any machine, implement, device, tree, derrick, stage or other setting, lumber, sash or door, structural steel, pipe bend, dynamo, transformer, generator, punch, agitator, object or thing having a width of more than eight feet, other than any implement of husbandry or any special mobile equipment, as defined in the Vehicle Code, having a width of ten feet or less. The term also includes a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum permitted by the Vehicle Code.
- (c) **Building Code** means the latest adopted code regulating Building construction.
- (d) **City** means the City of San Marcos.
- (e) **Civil Engineer** means a Professional Engineer registered in the State of California to practice in the field of civil engineering.
- (f) **Director** means the City Manager of the City of San Marcos or their designee.
- (g) **Driveway** means a surface intended for exclusive vehicular ingress and egress from a public or private street or drive-aisle.
- (h) **Emergency Work** means work determined to be of an emergency nature by the Director and that is caused by outages or a safety hazard to residents or employees, or a failure of systems that creates a situation that could possibly be detrimental to the health, safety, and welfare of City residents.
- (i) **Encroachment** means constructing, replacing, or maintaining on, over, or under, or using any Public Place so as to prevent, obstruct, or interfere with the normal use of that Public Place, including any culvert, surface or subsurface drainage Facility, water quality Facility, pathway, private walk, embankment, tower, pole, pole line, pipe, pipeline, driveway, private road, wall, fence, billboard, stand, or Building, or any Structure or object of any kind or character not particularly mentioned in this Chapter.
- (j) **Encroachment Work** means the work of constructing, placing, installing, repairing, or maintaining an Encroachment in the Right-of-way.

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- (k) **Engineer of Record** means the Civil Engineer with responsible charge for the grading and associated improvements; authorized to act for a property owner or agent in doing work covered by this Chapter; licensed by the State of California to practice in the relevant field; and responsible for preparation of the grading plans, certification of the completed grading work, and preparation of the record plans.
 - (l) **Highway** means any public highway, Public Street, public way, or Public Place in the City, held as Right-of-way, and used for purpose of travel.
 - (m) **Person** means any natural person, firm, partnership, association, limited liability company, corporation, political body and/or business organization of any kind, whether for-profit or otherwise, and also includes the United States, this State, the County of San Diego, and the City, including all departments and bureaus thereof, except as specifically provided in section 14.25.050.
 - (n) **Permit** means the authorization from the Director to perform work, along with associated documents submitted by the Applicant, together with applicable plans, Standards, Traffic Control plans, application, and Permit conditions.
 - (o) **Permittee** means the Applicant or developer in whose name a valid Permit is duly issued pursuant to this Chapter and their agents, employees, and others acting under their direction.
 - (l) **Public Place** means any Highway, Public Street, way, Right-of-way, place, alley, sidewalk, Trail, park, square, or any other public property owned or controlled by any government agency in a governmental capacity.
 - (p) **Public Street.** Means the full width of the surfaced or traveled portion, including shoulders, of any road, street, Highway, path, lane, alley, avenue, or other public way or public grounds held as Right-of-way; dedicated to, reserved for or used for vehicular traffic; and accepted as and declared to be part of the City system of public streets, except Highways forming a part of the state highway system.
 - (q) **Right-of-way** means all land or interest therein 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 street or Highway purposes.
 - (r) **Sidewalk** means any concrete sidewalk, made of either Portland Cement Concrete (PCC) or Asphalt Concrete (AC) or other public way used expressly for pedestrian traffic.
 - (s) **Standards** means the standards used by the City to govern the design, layout, materials, means, and methods for construction including the latest City-adopted Standard Specifications for Public Works Construction (Greenbook), City-adopted supplements to the Greenbook including City Special Provisions, San Diego Regional Standard Drawings, City-adopted supplement to the San Diego Regional Standard Drawings, Work Area Traffic Control Handbook, or any other adopted standard as may be deemed applicable to the Permit by the Director.
 - (t) **Structure.** See Building.
 - (u) **They** and **their** as used herein are the gender-neutral singular pronoun (such as he/she/they) and the associated possessive (his/hers/theirs).
 - (v) **Traffic Control** means by which vehicular traffic is safely routed through a work zone.
 - (w) **Vehicle Code** means the Vehicle Code of the State of California.

(Ord. No. 2022-1521, § 2, 9-13-2022; Ord. No. 2024-1549, § 2(Exh. A), 9-10-2024)

14.04.020 Application Requirements.

No Person shall do or cause to be done any work covered under this Chapter without first having obtained a City contract, City franchise, or a Permit under this Chapter to do such work. Every Applicant for a Permit or license required by this Title shall make an application to the Director.

(a) **Application.** The application shall state the estimated quantities of work involved and shall contain such other information, and be accompanied by such other reports, as may be required by this Section or by Chapter 18.04 of this Code relating to Environmental Review. The application for any Permit must include all of the following items, in a quantity and format as defined by the Director, unless a specific item is waived in writing by the Director following a review of the project submittal:

- (1) Application form.
- (2) Plans and specifications.
- (3) Geotechnical report.
- (4) Hydrology and Hydraulics study.
- (5) Application fees.
- (6) Engineer's cost estimate.
- (7) Temporary Erosion, sediment control, and construction best management practices (BMP) plan, and any applicable Storm Water Quality Management Plan (SWQMP) and/or Storm Water Pollution Prevention Plan (SWPPP) as applicable under the Construction General Permit.
- (8) Permanent erosion and sediment control, post-construction Structural BMP plan, and any applicable SWQMP.
- (9) Storm water pollution control checklists and compliance documents.
- (10) Community Facilities District (CFD) Landscape and irrigation plan.
- (11) Title report, recorded documents referenced therein, and record maps.
- (12) Any supplemental materials required by the Director.

(b) **Plans and Specifications.** Unless otherwise waived by the Director, each application for a Permit shall be accompanied by plans and specifications prepared and signed by the Engineer of Record, unless otherwise allowed by California Business and Professions Code.

Plans shall be drawn to an engineering scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that all work will conform to the provisions of this Chapter and all relevant laws, ordinances, rules, and regulations. The plan sheets shall use appropriate screening to clearly indicate in bold the proposed work while "screening back" existing conditions and/or work by others. The title sheet content and format shall be as required by the Director.

The plans shall include the following information:

- (1) Site map depicting the general vicinity of the site where the work is to be done, assessor's parcel number(s), and name and address of Permittee.
- (2) Dimensioned Right-of-Way and/or Public Place limits, existing easements, existing street sections, accurate contours of existing ground and details of terrain.
- (3) Dimensions, elevations, and finish contours to be achieved by the work, and proposed street sections including but not limited street profiles with street centerline and curb, surface materials, and dimensioned curb data.

(4) Detailed plans of all surface and subsurface drainage facilities, walls, cribbing, dams, and other infrastructure either existing or to be constructed together with a map showing the drainage area and estimated runoff of the area served by any drainage systems including but not limited to dimensioned storm drain data, invert elevations, materials, and profiles with hydraulic grade lines.

(5) Information demonstrating to the satisfaction of the Director that the work will satisfy the requirements of Chapter 14.15 of this Code and, in particular, that the Permittee will implement BMPs specified in Sections 14.15.050(c) and (d) to the maximum extent practicable during the construction process.

(6) Information demonstrating compliance with City and State requirements for permanent post-construction storm water BMPs, including, but not limited to existing and proposed BMPs, depiction of how all runoff generated on or draining to the work area will be routed to BMP areas and treated before discharge, hydromodification facilities, and references to City assigned identification.

(7) Publicly-maintained landscaping and irrigation.

(8) Location of any buildings or structures on adjacent land and within 15-feet of the work area; locations of adjacent facilities that may be affected by the construction work, including wet and dry utilities together with required clearances in accordance with permitting agency requirements.

(9) Water and sewer facilities as required by the servicing water and sewer agency.

(10) Location and specifications of striping, signage, traffic signals, and associated utilities.

(11) The name, seal, and signature of the Engineer of Record.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.030 Permit Application by Contractor.

In addition to the application required by Section 14.04.020, the contractor of any such Person shall be required to obtain a Permit **as specified in Chapter 14.16**. The City or any contractor of the City for Public Place construction, improvement or repair shall not be required to obtain a Permit pursuant to this Title.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.040 City Free From Liability.

The Applicant shall indemnify and hold harmless the City, each of its officers, and its employees from any liability or responsibility for accident, loss, or damage to persons or property arising by reason of the work done by the Applicant, or their agents, employees, or representatives.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.050 Fee.

Every Applicant for a Permit or license required by this Title shall at the time of making application for the Permit or license pay the fees required for such Permit or license.

The Applicant shall provide the required security to guarantee proper completion of the Permitted work as described in this Title prior to Permit issuance.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.060 Fee or Deposit Exemption.

If the United States, the State of California, this City or any other municipality, any municipal corporation, school district, other special district, or public body files with the Director a written guarantee of payment of all costs for which they may become liable to the City, then neither an issuance fee nor deposit is required from such Persons.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.070 Waiver of Prepayment of Fees.

At the request of any Permittee who maintains with the Director a general deposit as provided in this Chapter, the Director may waive the requirement for prepayment of the issuance fees and bill said Permittee for issuance fees for those Permits issued subsequent to such request; provided, however, that the amount of said deposit is sufficient to cover said fees and to provide for other contingencies for which it is submitted. The Director may revoke such waiver at any time, and must revoke the waiver if the Permittee fails to pay the bill for fees within the required time.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.080 Billing of Permittee Granted Prepayment Waiver.

Where the Director grants the waiver provided in Section 14.04.070, Permittee shall be billed monthly for all Permits issued during the month, and the Permittee shall pay said bill not later than 30 calendar days from the invoice date.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.090 Purpose of Fees.

The issuance fees required by this Chapter are for the purpose of defraying the cost of issuing the requested Permit. No part of any issuance fee may be refunded to any Applicant.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.100 Deposit of Fees.

Issuance fees, deposits, and charges for repairs, inspection, or engineering services collected under the provisions of this Title shall be deposited into the respective accounts from which the corresponding disbursements will be or were made. Deposits made by Applicants shall be held by the City for a duration of three years following the completion and acceptance of the work for which the Permit in question was issued, after which time any funds in excess of the amounts necessary to reimburse the City for or inspection, engineering, and/or related services, or to effectuate repairs for any damages caused to the City or to public property and/or equipment by the Applicant and/or its contractor, may be declared abandoned and, upon the provision of duly required notice, if no application for return of such funds has been received, transferred to the City's General Fund. Notwithstanding this Section 14.04.100, Applicants shall remain responsible for the cost of any repairs, inspection, or engineering costs associated with Permit(s) issued by the City.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.110 Explanation of Costs.

Whenever in the provisions of this Title any costs are to be charged to any Permittee, and no other method for the calculation of such costs is specified, such costs are the actual costs including the proportionate part of the salaries, wages, or other compensation of any deputy or employee, plus cost of overhead not to exceed 15 percent of the total.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.112 – Expiration of Permits

(a) **Application and Permit Expiration Timelines.** A Permit shall be valid for the time period established for the same as set forth in this Chapter.

(1) **Lapse of Application Prior to Permit Issuance.** Unapproved Permit applications shall lapse after a period of 180 days of inactivity. The time limit may be extended at the Director's discretion, or by the Director upon written request of the Permittee or owner, if it can be shown that applicant had been in regular communication with the City and diligently pursued completion of required work but encountered unanticipated conditions or requirements including but not limited to, unanticipated site and/or environmental conditions, permitting requirements of other regulatory agencies, and/or obtaining necessary easements to facilitate proposed work. Additionally, Permit applications shall lapse if a Permit is not issued in accordance with approved plans within 180 days from the date of such approval by the Director. In either case, the Applicant shall resubmit a complete updated application and all associated documents for review and re-approval with required fees per Section 14.04.020.

(2) **Lapse Following Permit Issuance.** Every Permit issued under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such Permit is not commenced within 180 days from the date of issuance of such Permit or if the work authorized by such Permit is suspended or abandoned at any time after work is commenced for a period of 180 days or more.

(a) The Permittee shall fully perform and complete all of the work required to be done pursuant to the Permit within the time limit specified therein or, if no time is so specified, within 360 days after the date of issuance of the Permit. The time limit may be extended at the Director's discretion, or by the Director upon written request of the Permittee, owner, or surety, if in the discretion of the Director, good and sufficient cause has been shown.

(b) In order to revalidate an expired Permit that has been extended at the discretion of the Director, the Permittee shall resubmit all required application forms and documents, including fees, except where waived by the Director.

(3) **Appeal.** An applicant may appeal the denial of extension by the Director pursuant to Section 14.04.182.

14.04.120 Approval of Application.

The Director shall not approve the application unless it appears to the Director that the work proposed to be done will not significantly damage the Highways nor create an unreasonable risk of harm to Persons or property and that the approval of said application is in the public interest. Notwithstanding the foregoing, the Director may approve the application subject to conditions if the Director determines that by doing so it would be in the public

interest, that no significant damage to the Highways would be created, and that no unreasonable risk of harm to Persons or property would be created.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.130 Issuance of Permit.

When the Director approves an application for a Permit, and after all fees, costs, and deposits applicable to such Permit have been received by the City, the Permit will be issued.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.140 Application of Public Agencies or Public Utilities.

Notwithstanding the provisions of Section 14.04.120, the Director shall approve the application for Permit subject to conditions of any public agency, special district, or public Utility having lawful authority to occupy the Highways and authorized by law to establish or maintain any works or facilities in, over, or under any public Highway. Any such Permit shall contain a provision that in the event that the future improvement of the Highway necessitates the relocation of its facilities, the Permittee will relocate the same at their sole expense.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.150 Conditions May be Changed After Permit is Issued.

Any Permit issued by the Director under any of the provisions of this Title, or the conditions to which it has been made subject, may be amended or changed if the Director deems such amendment or change to be necessary for the protection of the Highways, or to prevent undue interference with traffic, to protect both Persons and property within or adjacent to such Highways from damage or danger, or to protect the public interest. Notification of the amendment or change shall be made by the Director either by mailing written notice to the Permittee or by personal service of the same on Permittee. The amendment or change shall be effective either 24 hours after said written notice is deposited in the United States mail or immediately upon completion of personal service. The Permit may provide for service by email; if the Permittee provides an email address, the amendment or change shall be immediately effective.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.160 Revocation of Permit.

All Permits other than those issued to public agencies or a public Utility having lawful authority to occupy the Highways are revocable on five days' notice. The affected Encroachment must be removed or relocated as may be specified by the Director in the notice revoking the Permit and within a reasonable time specified by the Director unless the Permit provides a specified time.

A Permit shall be immediately revocable with Director approval of the Permittee's written request to revoke such Permit, or upon discovery that the facts are not presented accurately and/or correctly in the Permit application.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.170 Availability of Standards.

Copies of the Standards referred to in this Title may be acquired from the City or via the publisher. All or any portion of said specifications may be sold by the Director at the cost of producing the same, including administrative and associated costs. All moneys received pursuant to sales made under this section shall be paid into the City Treasury as provided by law.

(Ord. No. 2022-1521, § 2, 9-13-2022)

14.04.180 Enforcement by Director.

The Director is authorized to enforce the provisions of this Title.

(Ord. No. 2022-1521, § 2, 9-13-2022) 14.04.182 – Appeals.

An applicant may appeal a denial by the Director of an application for a Permit or extension of Permit issuance to the City Council within ten working days after such decision. Appeals shall be in writing and shall state the specific nature of the appeal. Appeals shall be filed with the City Clerk and are subject to fees established by the City's fee schedule.

14.04.190 Violation—Penalty.

Except where otherwise specifically provided by this Title, every Person is guilty of an infraction who, before obtaining a construction, Excavation, or Encroachment Permit from the Director:

- (a) Moves or causes to be moved along any Highway any Building or Structure; or
- (b) Makes or causes to be made any Excavation, fill, obstruction, or lays, constructs, or repairs any curb, Sidewalk, gutter, driveway, roadway surface, retaining wall, storm drain or culvert, or other work of any nature in, over, along, under, across or through any Highway; or
- (c) Places, changes, or renews any Encroachment in, under, or over any portion of a Highway.

(Ord. No. 2022-1521, § 2, 9-13-2022)