

CITY OF GRAND JUNCTION, COLORADO

Ordinance No. 2926

ORDINANCE AMENDING 38-162, 164, 165, 166, 167 & 169
CONCERNING RIGHT OF WAY WORK PERMITS AND PERFORMANCE/WARRANTY
GUARANTEE FOR PERMITS
OF THE
CODE OF ORDINANCES
OF THE
CITY OF GRAND JUNCTION.

Recitals.

Sections 164, 165, 166 and 167 of Article 38 the Code of Ordinances require the permitting of and the posting of security for work conducted within public rights of way. Sections 164, 165 and 166 provide the form of the permit and section 167 provides for certain forms of security for permits. Section 169 provides for inspection and testing fees and procedures. Section 162 makes certain activities, including the performance of work without a permit unlawful.

The City Engineer and staff of Public Works and Utilities recommend that the Code of Ordinances be amended as proposed to clarify lawful and unlawful activities and to provide that a license and permit bond be included among the acceptable types of performance/warranty guarantees.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

A. Article 38, Section 162 *Unlawful Activity* is amended to read:

"It shall be unlawful for any person to make, construct, reconstruct or alter any opening, excavation, tunnel, sidewalk, curb, gutter, driveway, street or to perform any other work of any kind within the public way which will result in the physical alteration thereof unless such person shall have first obtained a permit for the performance of such work, and unless such work shall be performed in conformity with: the terms and provisions of this article; any permits or franchises issued under this article; and the engineering regulations, design standards and construction testing and inspection specifications adopted by the city."

B. Article 38, Section 164 *Permit to work in the public way* is amended to read,

"There shall be required a permit to work in the public

way."

C. Article 38, Section 165 *Application for permit* is amended to read,

"A separate written application for the work to be done under a permit shall be submitted to the director on a form available from the city." [The balance of the section is not amended.]

D. Article 38, Section 166 *Permit, inspection and testing fees* is amended to read:

"(a) A fee, as established by resolution of the city council and on file in the city clerk's office, shall be required to obtain each permit."
(b) is deleted in its entirety.
(c) is re-lettered as (b)
(d) is re-lettered as (c)
(e) is re-lettered as (d)

E. Article 38, Section 167 *Performance/warranty guarantee for permits* is amended to read,

"(1) Each permittee, before being issued a permit under this article, shall provide the city, at the permittee's expense, a performance warranty/guarantee in accordance with one of the following:

(a) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable in form and content to the city, in an amount equal to one hundred (100) percent of the city manager's estimate of the cost of restoration. The cost of restoration shall include the removal of defective material, re-compaction of sub-grade and base material and construction of surface improvements. The license and permit bond or letter of credit shall run for a period of time at least one year beyond the anticipated acceptance date of any work done under the right of way work permit(s). Such guarantee(s) shall be extended if requested by the city manager; or,

(b) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable to the city in form and content, in the principal sum of ten thousand dollars (\$10,000.00) Payable to the city of grand junction upon failure of the permittee to restore all of the right of way to a condition comparable to that which existed at any location at which work is performed by the permittee under one or more permits issued to the permittee. The cost of restoration shall include the removal of defective material, re-compaction of sub-grade and base material and construction of surface improvements.

(c) If no written refund request of a cash deposit

is received, the deposit shall be carried forward and applied as the performance/warranty guarantee (in whole or in part as the fee may be established by the city council) for the following year."

"(d) Other guarantees. In lieu of the requirements of (a) and (b) of this section, any public utility regulated by the state public utilities commission, ANY person holding a franchise from the city, A mutual water district, any governmental agency or any metropolitan water and/or sanitation district or conservancy district may provide the city with an annual letter signed by an appropriate officer guaranteeing:

(1) complete performance of the work acceptable to the city; and

(2) the correction of any defect in the work which the city discovers and for which the city gives written notice to the permittee within one year after the date when the city initially accepts the work.

If the director determines that any permittee fails to perform promptly under the conditions of this subsection (d), that permittee shall be required to post a performance/warranty guarantee meeting the requirements of subsection (b) of this section. If the director determines that the permittee then satisfactorily complies with this article for a one-year period while operating under the provisions of subsection (b) of this section, the permittee shall again be eligible to operate with the annual letter guarantee provided in this subsection (d). Notwithstanding anything to the contrary contained in this section, any contractor performing work pursuant to a contract with the city shall adhere to the performance and payment requirements set forth in the contract documents."

Article 38, Section 169 *Inspection and testing fees and procedures* is amended to read:

" At the time of permit application and at such OTHER intervals as may be established by the director, all permittees under this article shall pay for the costs of inspection and testing. Costs of inspection and testing shall be in accordance with this article and the schedule of charges adopted by city council resolution.

(1) Process. An initial site inspection may be conducted by the city following submittal of an application. Following issuance of a permit, inspection of the work shall be performed as determined necessary by the city to assure that the work is performed in accordance with and pursuant to the permit and any and all applicable standards and specifications.

(2) Permitted work. The permittee shall notify the city immediately after completion of work and acceptance will be made if all work meets city and

permit standards. Approximately 30 days prior to expiration of the one-year guarantee, the city may perform an inspection of the completed work. If the work is intact and otherwise satisfactory, the guarantee shall be returned and released less any amounts needed to complete work not performed by the permittee. A guarantee may be carried forward for future projects. At any time prior to completion of the one-year warranty, the city may notify the permittee of required repairs. the permittee shall complete such repairs within 24 hours or less if required by the director, if the defects are determined by the city to be an imminent danger to public health, safety OR welfare. The permittee shall complete all other repairs within 30 days after notice to the permittee.

(3) Random Inspections. The city may perform random inspections of the work described and/or permitted in or by this article and the permittee shall correct its work or procedures if ordered to do so as provided above. Failure to timely correct any work or procedure may result in revocation of the permit.

(4) Testing. Material(s) testing shall be performed as indicated on the permit or as otherwise required by the director. All testing shall be performed by a certified, independent testing laboratory at the sole and absolute expense of permittee."

Introduced on first reading this 15th day of May, 1996.

PASSED and ADOPTED on second reading this 5th day of June, 1996.

/s/ Linda Afman
Linda Afman
Mayor

Attest:

/s/ Stephanie Nye
Stephanie Nye
City Clerk