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Article 2: Public Right-of-Way and Land Development**Division 12: Excavations in the Public Right-of-Way***("Excavation Fees" added 9-22-2003 by O-19215 N.S.)**(Retitled to "Excavations in the Public Right-of-Way" and**amended 1-2-2013 by O-20231 N.S.)**(Retitled from "Excavations in the Public Right-of-Way" to "Excavations in the Public Right-of-Way" on 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)***§62.1201 Purpose**

This Division shall govern excavation in the *public right-of-way* within the City. Excavations degrade and shorten the life of the sidewalks, roads and *facilities* within the *public right-of-way*. The purpose of this Division is to provide policies and procedures to facilitate excavation in the *public right-of-way*, while minimizing damage to public infrastructure and ensuring public safety. It is the further purpose of this Division to establish cost recovery mechanisms for all costs to the City resulting from excavations in the *public right-of-way*.

*("Findings and Purpose" added 9-22-2003 by O-19215 N.S.)**(Retitled to "Purpose" and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)***§62.1202 Departmental Orders and Regulations**

The *City Engineer* may adopt such orders or regulations necessary to implement this Division and to preserve and maintain the public health, safety, welfare, and utility of the *public right-of-way*. Each excavation in the *public right-of-way* shall be performed in accordance with *City Adopted Standards*, specifications, orders, and regulations, unless the *City Engineer* grants prior written approval to deviate from any such standards, specifications, orders, or regulations. The *City Engineer* shall develop and maintain guidelines to implement the approval of any deviations and shall document such deviations.

*("Definitions" added 9-22-2003 by O-19215 N.S.)**(Retitled to "Departmental Orders and Regulations" and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)**(Amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)*

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§62.1203 Definitions

For purposes of this Division, the definitions in San Diego Municipal Code (Municipal Code) section 62.1102 apply. In addition, the following definitions apply in this Division:

Alley has the same meaning as provided in Municipal Code section 113.0103, as may be amended.

Asphalt overlay means the process of milling the existing pavement and installing a new layer of asphalt on top of the milled surface.

Decorative surface means any non-standard surface on the *public right-of-way* such as ceramic tile, concrete pavers, stamped concrete, painting, or other surface using a unique treatment.

Emergency means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

Excavation influence area means the area that is impacted by the excavation as determined by the *City Engineer* and extends around the perimeter of the excavation as set forth in the chart in Municipal Code section 62.1209.

Exploratory excavation means a limited excavation, not to exceed 3 feet by 3 feet unless authorized by the *City Engineer*, to determine the actual vertical and horizontal location of underground *facilities*.

Facility owner means the *public utility* or other *person* that owns, controls, or is otherwise responsible for a *facility* or *facilities* within the *public right-of-way*.

Hazardous material means any gas, material substance, or waste which, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety to the environment.

Major excavation means an excavation involving a trench greater than 6 inches in width or greater than 3 feet in depth.

Markout means a marking on the *pavement* that identifies the type and approximate horizontal location of underground *facilities*.

Minor excavation means an excavation involving a trench 6 inches or less in width and 3 feet or less in depth.

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Moratorium street means any street, or portion thereof, that is newly constructed, or has been reconstructed or *asphalt overlayed* in the preceding three-year period or *slurry sealed* in the preceding one-year period. *Moratorium streets* will not include streets where the *asphalt overlay* or *slurry seal* does not extend from curb to curb or between intersections.

Municipal excavator means an *excavator* that is an agency, board, commission, department, or subdivision of the City, or other municipality or public agency that owns, installs, or maintains a *facility* or *facilities* in the *public right-of-way*.

New Service means a new connection from an existing underground *facility* to a specific customer site.

Non-linear excavation means an excavation for accessing an existing *facility* and is no more than 18 inches around the access hole, vault, or other similar substructures required to access the existing *facility*.

Slurry seal means a pavement preservation method consisting of asphalt emulsion and aggregates.

Trenchless Technology means any method, including drilling, auguring, boring, and tunneling, material, equipment, technique, or combination thereof that can be used to install, replace, renew, or repair underground infrastructure with minimal surface disturbance.

Underground Service Alert means the state-mandated agency responsible for, after receiving notice of a planned excavation, notifying all public utilities that have underground installations in the *public right-of-way* prior to an excavation.

(“Three Year Moratorium on Resurfaced Public Rights-of-Way” added 9–22–2003 by O–19215 N.S.)

(Retitled to “Definitions” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

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§62.1204 Markouts

- (a) *Excavators* seeking to perform work in the *public right-of-way* shall notify *Underground Service Alert* of the planned excavation and obtain a utility *markout* prior to excavation as required by California Government Code sections 4216-4216.24, as may be amended.
- (b) All *excavators* shall give notice to *Underground Service Alert* as required by California Government Code section 4216.2, as may be amended, before any *excavation*, including *exploratory excavations*, is commenced.
- (c) If an *emergency* arises requiring immediate action, *Underground Service Alert* shall be notified within 24 hours.
- (d) *Markouts* shall not be placed in the *public right-of-way* more than 14 days prior to the commencement of excavation work. If the excavation work is not commenced within 14 days of the placement of the *markout*, the *markout* shall be immediately removed by the *excavator*.
- (e) *Excavators* shall remove *markouts* from all surfaces in the *public right-of-way*, including from *decorative surfaces*, concurrently with required *pavement* restoration.

(“Moratorium on Slurried Public Rights-of-Way” added 9-22-2003 by O-19215 N.S.)

(Retitled to “Coordination of Excavation” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Retitled from “Coordination of Excavations” to “Markouts” and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

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§62.1205 Duration of a Public Right-of-Way Permit to Excavate Within a Public Street

It shall be unlawful for any *person* or *public utility* to excavate within the roadway section of a street in the *public right-of-way* without a valid *Public Right-of-Way Permit* issued in accordance with Municipal Code section 129.0741. Notwithstanding Chapter 12, Article 9, Division 7 of this Code, a *Public Right-of-Way Permit* to excavate within the *public right-of-way* shall be void if the excavation has not begun within 90 calendar days of the start date specified in the permit.

(“Excavation Fee” added 9–22–2003 by O–19215 N.S.)

(Retitled to “Duration of a Public Right-of-Way Permit to Excavate Within a Public Street” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

(Amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

62.1206 Moratorium Streets

(a) Excavations shall not be permitted in a *moratorium street* without a valid moratorium waiver, regardless of whether the moratorium was active prior to a required application for a *Public Right-of-Way Permit*. The moratorium period for the *moratorium street* begins upon the acceptance of a newly constructed or reconstructed street by the *City Engineer*, or completion of the *asphalt overlay* or *slurry seal*.

(b) The excavation moratorium does not apply to:

(1) a raised median located within a *moratorium street*; or

(2) *alleys*.

(“Resurface Agreement” added 9–22–2003 by O–19215 N.S.)

(Retitled to “Moratorium Streets” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

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§62.1207 Excavation Moratorium Waivers

The *City Engineer* may upon written request grant an excavation moratorium waiver. The *City Engineer* may place additional conditions on a *Public Right-of-Way* Permit as a condition of granting a waiver under Municipal Code section 62.1207. Any excavation performed on a *moratorium street* as part of a moratorium waiver shall follow the applicable restoration process in Municipal Code sections 62.1209 or 62.1210. The *City Engineer* may grant an excavation moratorium waiver only upon making a written finding that the excavation is necessary because of one or more of the following reasons:

- (a) An *emergency* exists that requires excavation to remediate the *emergency*.
- (b) The *public utility* has demonstrated to the *City Engineer's* satisfaction that *New Service* to a specific location does not require excavation exceeding 500 linear feet from the existing main, except as authorized or required by applicable federal or state law, decisions, orders, and regulations, and cannot be provided:
 - (1) through existing conduit;
 - (2) through *trenchless technology* because of:
 - (A) soil conditions;
 - (B) proximity of *facilities*; or
 - (C) the use of *trenchless technology* is impractical due to costs when compared to trenching and resurfacing performed in accordance with approved standards; or
 - (3) from another location.
- (c) The installation or relocation of *facilities* by a non-government owned *public utility* is required by the City or county, state or federal government for a reason other than the establishment of an underground utility district established under Municipal Code section 61.0501.
- (d) Only a *non-linear excavation* or *exploratory excavation* will be conducted. The *City Engineer* may authorize a larger *exploratory excavation*. Such authorization is at the *City Engineer's* sole discretion, and must be made in writing signed by the *City Engineer*.

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- (e) The excavation is part of construction of new surface features that results in the permanent removal of existing *pavement*, where the impact to surrounding *pavement* is limited to the area required for temporary installation of materials needed for construction of median, sidewalk, curb and gutter, and similar surface improvements.
- (f) The work is to repair or correct defects that occur within the warranty period after the street has been *asphalt overlayed* or *slurry sealed*.
- (g) The work involves *trenching* through an intersection of a *moratorium street* where such work is necessary to complete a project on a cross street.
- (h) The excavation is part of a funded and planned project scheduled in the City's digital coordination system that was waiting for a *moratorium street* to be out of the moratorium period, but the moratorium period was extended because a moratorium waiver was granted to another *excavator* for one of the reasons listed in (a) through (g).

(“Excavation Warranty” added 9-22-2003 by O-19215 N.S.)

(Retitled to “Excavation Moratorium Waivers” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1208 General Restoration of the Public Right-of-Way

The following restoration requirements apply to excavations in the *public right-of-way*:

- (a) If the sidewalk, street, alley, or other *public right-of-way* is to be excavated, the *excavator* shall restore or cause to be restored such excavation in the manner prescribed by *City Adopted Standards* and any applicable permit requirements.
- (b) *Excavators* shall restore *pavement* at the end of each day with *pavement* material that shall be maintained flush with the adjacent *pavement* such that the excavation may be safely accessed by all users. If surfacing material cannot be installed at the end of each day, then all intersections, pedestrian crossings, and other locations as required by the *City Engineer* shall be secured with structural trench plates.

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- (c) All damaged *pavement* shall be restored with surfacing materials which match both the surface and the structural strength of the adjacent surface and meet *City Adopted Standards*.
- (d) All *pavement* shall be restored with permanent surfacing material within 60 calendar days of a *major excavation*. All *pavement* restoration for *minor excavations* shall adhere to *City Adopted Standards*.
- (e) If the excavation and related work impacts a curb at a pedestrian street crossing where no curb ramp exists, then this activity constitutes an alteration as defined in 28 C.F.R. §§ 35.151(b) and 35.151(i) (2011). Where an alteration occurs, a new curb ramp compliant with accessibility requirements must be constructed rather than replacing the existing curb.

(“General Restoration of the Public Right-of-Way” added 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1209 Restoration of Moratorium Streets Under Excavation Moratorium Due to New Construction, Reconstruction, or Asphalt Overlay

Excavators shall *asphalt overlay* in *moratorium streets* under moratorium due to new construction, reconstruction, or *asphalt overlay* within 180 working days after the *City Engineer* approves the trench repair as follows:

- (a) Where the excavation is in the direction of traffic, the *excavator* shall *asphalt overlay* the street from curb to curb or, where a raised median is present, from the curb to the raised median for the length of the excavation area and the *excavation influence area* on each end.
- (b) Where the excavation is perpendicular to the direction of traffic, the *excavator* shall *asphalt overlay* the street from curb to curb or, where a raised median is present, from the curb to the raised median, for the length of the excavation and the length of the *excavation influence area*.

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Table 62-12A

The *excavation influence area* extends around the perimeter of the excavation as follows:

Street Classification	Wet Utilities	Dry Utilities
Arterial Streets	62 inches	51 inches
Major Streets	71 inches	55 inches
Collector Streets	82 inches	43 inches
Residential Streets	74 inches	46 inches

(“Resurfacing Public Rights-of-Way” added 9-22-2003 by O-19215 N.S.)
(Retitled to “Excavations on Streets Under an Excavation Moratorium Due to Reconstruction or Resurfacing” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(“Renumbered from Section 62.1208 to Section 62.1209, retitled from *Excavations on Streets Under an Excavation Moratorium Due to Reconstruction or Resurfacing*” to “*Restoration of Moratorium Streets Under Excavation Moratorium Due to New Construction, Reconstruction, or Asphalt Overlay*” and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1210 Restoration of Moratorium Streets Under Excavation Moratorium Due to Slurry Seal

Excavators shall slurry seal in moratorium streets due to slurry seal and within 180 working days after the City Engineer’s acceptance of the repair work as follows:

- (a) Where the excavation is in the direction of traffic, the *excavator shall slurry seal* the street from curb to curb, or where a raised median is present, from the curb to the median for the length of the excavation and the *excavation influence area*.
- (b) Where the excavation is perpendicular to the direction of traffic, the *excavator shall slurry seal* the street from curb to curb, or where a raised median is present, from the curb to the median for the length of the excavation and the *excavation influence area*.

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Table 62-12B

The *excavation influence area* extends around the perimeter of the excavation as follows:

Street Classification	Wet Utilities	Dry Utilities
Arterial Streets	62 inches	51 inches
Major Streets	71 inches	55 inches
Collector Streets	82 inches	43 inches
Residential Streets	74 inches	46 inches

(“Repair of City Excavation” added 9-22-2003 by O-19215 N.S.)

(Retitled to “Excavations on Streets Under a Excavation Moratorium Due to Slurry Seal” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Renumbered from Section 62.1209 to Section 62.1210, retitled from “Excavations on Streets Under Excavation Moratorium Due to Slurry Seal” to “Restoration of Moratorium Streets Under Excavation Moratorium Due to Slurry Seal” and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1211 Additional Restoration of Streets Not Under an Excavation Moratorium

- (a) For *major excavations* in asphalt concrete streets other than *moratorium streets*, excavators shall:
- (1) restore the trench as required by *City Adopted Standards* and *asphalt overlay* the *excavation influence areas* within 180 days of the trench cap;
 - (2) repair damage to the existing *pavement* from the excavation work as determined by the *City Engineer*;
 - (3) if the trench or *excavation influence area* enters a bicycle lane, the entire width of the bicycle lane shall be *asphalt overlaid* and restriped for the length of the trench including the *excavation influence area*; and

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- (4) pay the Street Damage Fee under Municipal Code section 62.1216 for the increased repaving and reconstruction costs incurred by the City that are reasonably attributable to the impact of the *major excavation* in the *public right-of-way*, or perform additional restoration in-lieu of paying the Street Damage Fee as follows:
 - (A) repair and backfill the trench as required by *City's Adopted Standards*, and *asphalt overlay* the trench and all lanes affected by the trench, including any lanes within the *excavation influence area* within 180 days of the trench cap. If the excavation perpendicular to the direction of traffic was done on less than half of the width of the street as measured from curb to curb, grind and *asphalt overlay* the affected area from the toe of the gutter, or curb face if no gutter exists, to the centerline of the street or to the centerline marking where available;
 - (B) if the excavation only included installing one service lateral, *asphalt overlay* the trench and the *excavation influence areas* from curb to curb;
 - (C) if the excavation included installing more than one service lateral in one street segment (i.e., street block), *asphalt overlay* curb to curb from the *excavation influence area* of the first lateral excavation to the *excavation influence area* of the last lateral excavation;
 - (D) for any excavation larger than 3 feet by 3 feet, restore the width of the affected lane for the length of the excavation including the *excavation influence areas*, but in no circumstance shall the restored area be less than 10 feet in length; and
 - (E) repair any *pavement* damage outside the affected lane caused by the excavation work.
- (b) For *minor excavations* in asphalt concrete streets other than *moratorium streets*, excavators shall:
 - (1) restore the trench per *City Adopted Standards* and *asphalt overlay* the *excavation influence areas*;

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- (2) repair damage to the existing *pavement* from the excavation work as determined by the *City Engineer*; and
- (3) if the trench or *excavation influence area* enters a bicycle lane, the entire width of the bicycle lane shall be *asphalt overlayed* and restriped for the length of the trench including the *excavation influence area*; and
- (4) pay the Street Damage Fee under Municipal Code section 62.1216 for the increased repaving and reconstruction costs incurred by the City that are reasonably attributable to the impact of the *minor excavation* of the *public right-of-way*, or perform additional restoration in-lieu of paying the Street Damage Fee as follows:
 - (A) repair and backfill the trench per *City Adopted Standards*, *asphalt overlay* the trench and all lanes affected by the trench, including any lanes within the *excavation influence area* within 180 days. If the excavation perpendicular to the direction of traffic was done on less than half of the width of the street as measured from curb to curb, grind and *asphalt overlay* the affected area from the toe of the gutter, or curb face if no gutter exists, to the centerline or to the centerline marking where available;
 - (B) if the excavation included only one service lateral, *asphalt overlay* the trench and the *excavation influence areas* from curb to curb;
 - (C) if the excavation included installing more than one service lateral in one street segment (i.e., street block), *asphalt overlay* curb to curb from the *excavation influence area* of the first lateral excavation to the *excavation influence area* of the last lateral excavation;
 - (D) for any excavation larger than 3 feet by 3 feet restore the width of the affected lane for the length of the excavation including the *excavation influence areas*, but in no circumstance shall the restored area be less than 10 feet in length; and
 - (E) repair any pavement damage outside the affected lane from the excavation work.

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- (c) For any excavation in Portland cement concrete streets, including *alleys*, *excavators* shall perform restoration as directed by the *City Engineer* in accordance with the following:
- (1) *Excavators* shall restore the entire Portland cement concrete panel extending beyond both sides of the trench to the nearest joint or to the edge of the adjacent gutter, if it exists, or to the face of the curb if no gutter exists. If an existing trench patch is 4 feet or less from the edge of the excavation, the restoration shall include removing the existing trench cap and replacing it as part of the new Portland cement concrete construction for the new panel.
 - (2) *Excavators* shall perform additional repairs to Portland cement concrete to correct any damage caused during construction activities, including those associated with increased damage to *pavement* due to the use of large or heavy equipment during construction activities.

(“Establishment of Fund” added 9-22-2003 by O-19215 N.S.)

(Amended 11-14-2005 by O-19440 N.S.)

(Retitled to “Excavations Not Under an Excavation Moratorium” and amended 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Renumbered from Section 62.1210 to Section 62.1211, retitled from “Excavations Not Under an Excavation Moratorium” to “Additional Restoration of Streets Not Under an Excavation Moratorium” and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1212 Emergency Excavation

Nothing contained in this Division prohibits a *public utility* from taking the minimum actions necessary for the preservation of life or property or for the restoration of essential service provided by that *public utility* if such necessity arises when City offices are closed. The *public utility* shall notify the City through the Emergency Excavation Notification process prior to performing any excavation in the *public right-of-way*. The *public utility* shall then apply for a *Public Right-of-Way Permit* under Municipal Code section 129.0702, no later than 14 business days after excavation commences. The application for a *Public Right-of-Way Permit* under Municipal Code section 129.0702 shall include a written statement describing the basis of the emergency action, the excavation performed, and any work remaining to be performed. A *Public Right-of-Way Permit* under Municipal Code section 129.0702 shall not be valid until a final inspection of the excavation is performed and approved by the City. The *public utility* shall complete final street restorations within 60 days for *major excavations* and 7 days for *minor excavations* after completion of work.

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(“*Strict Compliance with Division Required*” added 9–22–2003 by O–19215 N.S.)
(Retitled to “*Emergency Excavation*” and amended 1-2-2013 by O-20231 N.S.;
effective 2-1-2013.)
(“*Emergency Evacuation*” renumbered from Section 62.1211 to Section 62.1212 and
amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1213 Excavation and Trench Liability

Each *facility owner* is responsible for the quality of the excavation performed in the *public right-of-way* and is liable for the consequences of any condition of such excavation and any *facilities* installed in the *public right-of-way*. The issuance of any permit, inspection, repair or suggestion, approval or acquiescence of any *person* affiliated with the City shall not excuse any owner or agent from such responsibility or liability.

(“*Excavation and Trench Liability*” added 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(“*Excavation and Trench Liability*” renumbered to from Section 62.1212 to Section 62.1213 and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1214 Indemnification of the City

To the extent permissible by law, *excavators* and their agents, successors, and assigns, shall indemnify, defend, protect and hold harmless the City, including, without limitation, each of its commissions, elected officials, departments, officers, agents, and employees from and against any and all actions, claims, costs, damages, demands, expenses, fines, injuries, judgments, liabilities, losses, penalties, or suits including, without limitation, attorney’s fees and costs of any kind allegedly arising directly or indirectly from:

- (a) Any act, omission, or negligence by an *excavator*, its agents, contractors, subcontractors, or the officers, agents or employees of such entities, while engaged in the performance of the excavation authorized by the *Public Right-of-Way* Permit, or while in or about the property subject to the *Public Right-of-Way* Permit for any reason connected in any way whatsoever with the performance of the excavation authorized by the *Public Right-of-Way* Permit or allegedly resulting directly or indirectly from the maintenance or installation of any *facilities* or structures authorized under the *Public Right-of-Way* Permit;
- (b) Any alleged act or omission of the City, not including allegations of the City’s active or sole negligence or willful misconduct.

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- (c) Any accident, damage, death, or injury to any *excavator* or its contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the excavation authorized by the *Public Right-of-Way* Permit or while in or about the property for any reason connected with the performance of the excavation authorized by the *Public Right-of-Way* Permit or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the excavation authorized by the *Public Right-of-Way* Permit;
- (d) Any accident, damage, death, or injury to any *persons* or accident, damage, or injury to any real or personal property upon, or in any way allegedly connected with, the excavation authorized by the *Public Right-of-Way* Permit from any cause or claims arising at any time; and
- (e) Any release or discharge, or threatened release or discharge, of any *hazardous material* caused or allowed by permittee about, in, on, or under the excavation site subject to the *Public Right-of-Way* Permit.

(“*Indemnification of the City*” added 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)
 (“*Indemnification of the City*” renumbered from Section 62.1213 to Section 62.1214 and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1215 Insurance Requirements for Excavations in the Public Right-of-Way

To the extent permissible by law, *excavators* shall maintain in full force and effect, throughout the term of the *Public Right-of-Way* Permit, an insurance policy or policies, at their sole cost and expense, to provide coverage against claims for loss, including injuries to *persons* or damage to property, which may arise out of or in connection with the performance of the work by the *excavator* or its contractors issued by an insurance company or companies covering all operations, vehicles, and employees as follows:

- (a) Commercial general liability insurance shall be written on the current version of the ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad. The policy shall cover liability arising from premises and operations, XCU (explosions, collapse, and underground), independent contractors, products/completed operations, personal injury and advertising injury, bodily injury, and property damage. All costs should be outside of policy limits. Policy coverage shall be in liability limits of not less than \$2,000,000 per occurrence and a \$4,000,000 aggregate.

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- (1) The City and its respective elected officials, officers, employees, agents and representatives shall be added as additional insureds on a separate endorsement(s) delivered to the City prior to commencement of work, on a policy form(s) at least as broad as the CG 20 10 11 85. This additional insured coverage will not include indemnification for the City's active negligence.
- (2) The policy shall be endorsed to provide that the coverage with respect to operations, including the completed operations, if appropriate, of the named insured is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents, and representatives. Further, it shall provide that any insurance maintained by the City and its elected officials, officers, employees, agents, and representatives shall be in excess of the *excavator's* insurance and shall not contribute to it.
- (b) Contractors' pollution liability insurance written with a combined single limit of not less than \$1 million per claim or occurrence. Claims made policies shall include a 12-month extended Claims Discovery Period applicable to the excavation work or the existing policy or policies that shall continue to be maintained for 12 months after the completion of the work.
- (c) Automobile liability insurance written on the current version of the ISO form CA 00 01 12 90 or later version or equivalent form providing coverage at least as broad in the amount of \$1 million combined single limit per accident, coverage bodily injury and property damage for owned, non-owned and hired automobiles.
- (d) Workers Compensation and Employers Liability insurance as required by the State of California, with Statutory Limits, and Employer's Liability insurance with a limit no less than \$1 million per accident for bodily injury or disease.

The policy or policies shall be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of the policy or policies and which arise from work performed by the named insured.

- (e) Policies providing excess coverage shall follow the form of the primary policies, including all endorsements.

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- (f) Should any of the required insurance be provided under a claims-made form, the insured owner or its agent shall maintain such coverage continuously throughout the term of the permit, and without lapse, for a period of three years beyond the expiration or termination of the *Public Right-of-Way* Permit, to the effect that should occurrences during the term of the permit give rise to claims made after expiration or termination of the permit, such claims shall be covered by such claims-made policies.
- (g) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified in Municipal Code sections 62.1215(a) and §62.1215(b).
- (h) Certificates of insurance, in the form satisfactory to the City, evidencing all coverage described above, shall be furnished to the City before issuance of a permit, with complete copies of policies furnished promptly upon the City's request.
- (i) Where an *excavator* is self-insured, the City may accept such self-insurance as satisfying the requirements of Municipal Code section 62.1215 where the *excavator* provides evidence to the City such guarantee via a bond or other form of surety, no less broad and affording protection equivalent to the City as the requirements specified in Municipal Code section 62.1215. Any self-insurance, including any self-insured retention amounts, shall be disclosed in writing to the City prior to the commencement of any work.

(*“Insurance Requirements For Excavations in the Public-Right-of-Way” added 1-2-2013 by O-20231 N.S.; effective 2-1-2013.*)

(*Renumbered from Section 62.1214 to Section 62.1215, retitled from “Insurance Requirements For Excavations in the Public-Right-of-Way” to “Insurance Requirements for Excavations in the Public Right-of-Way” and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.*)

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§62.1216 Street Damage Fee

Each *excavator* shall pay to the City a Street Damage Fee to recover the increased repaving and reconstruction costs incurred by the City that are reasonably attributable to the impact of the excavation to the *public right-of-way*, unless the *excavator* performs additional restoration as described in Municipal Code section 62.1211(a)(4) or Municipal Code section 62.1211(b)(3) to account for such increased repaving and reconstruction costs or as otherwise provided by law. The amount of the Street Damage Fee shall be established by resolution of the San Diego City Council adopted under this Division and placed on file in the Office of the City Clerk. The Street Damage Fee Schedule shall be automatically adjusted every year on July 1 based on the RS Means Construction Cost Index, or a similar construction industry index selected by the City Manager if the RS Means Construction Cost Index is discontinued. The Street Damage Fee shall not exceed an amount reasonably necessary to recover the estimated costs, including but not limited to all administration, investigation, inspection, monitoring, reconstruction, slurry seal and resurfacing necessary to fully mitigate the damage and degradation caused by the excavations. The fee shall be the amount in effect on the date of issuance of a *Public Right-of-Way Permit*, or for *Municipal Excavators* the amount in effect on the date of commencement of the excavation.

(“Street Damage Fee” added 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(“Street Damage Fee” renumbered from Section 62.1215 to Section 62.1216 and amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1217 Repair and Maintenance Obligation of Facility Owner

Facility owners of wet utilities shall maintain, repair, or reconstruct the site of any excavation and the surface condition per *City Adopted Standards* or as specified by the *City Engineer* for 15 years after inspection and acceptance by the City. *Facility owners of dry utilities* shall maintain, repair, or reconstruct the site of any excavation and the surface condition per *City Adopted Standards* or as specified by the *City Engineer* for 10 years after inspection and acceptance by the City. Upon notification by the City of the need for maintenance, repair, or reconstruction, *facility owners* shall apply for a *Public Right-of-Way Permit* within 10 business days and complete corrective work within 90 calendar days after issuance of the permit. Safety issues shall be addressed immediately.

(“Repair and Maintenance Obligation of Facility Owner” added 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

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§62.1218 Excavation Site Requirements

It shall be unlawful, with the exception of *municipal excavators*, to excavate in violation of the following requirements:

- (a) *Excavators* shall have the *Public Right-of-Way Permit*, any required Traffic Control Permit, and any applicable excavation moratorium waiver documentation available for inspection at the site of excavation.
- (b) *Excavators* shall not excavate without providing proper notice to the *Underground Service Alert* in accordance with Municipal Code section 62.1204.
- (c) Excavations shall not exceed the scope of excavation described within the *Public Right-of-Way Permit* without the prior written approval of the *City Engineer*.

(“*Excavation Site Requirements*” added 1-2-2013 by O-20231 N.S.; effective 2-1-2013.)

(Amended 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)

§62.1219 Restoration of Decorative Surfaces

For areas with a *decorative surface* in the *public right-of-way*, *excavators* shall comply with the following additional requirements:

- (a) Before disturbing any *decorative surface*, *excavators* shall provide information to the *City Engineer* to establish that such disturbance is necessary because alternative measures, such as rerouting, boring, jacking, or scoping, cannot be used.
- (b) Before commencing work on the *decorative surface*, *excavators* shall submit to the *City Engineer* for approval, specifications designed to minimize destruction and ensure restoration of the same quality of surface.
- (c) *Excavators* shall deliver written notice to the *City Engineer* at least two working days prior to starting construction or trenching that will involve any disturbance of *decorative surfaces* in the *public right-of-way*. The notice shall include the location and estimated start and completion dates. In the event of an *emergency*, written notice shall be delivered to the *City Engineer* as soon as possible after the start of construction.
- (d) *Excavators* shall not damage adjacent surface material when removing a *decorative surface*.

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- (e) *Excavators* shall restore *decorative surfaces*, at no cost to the City, with surfacing material that matches both the surface and the structural strength of the adjacent surface.

(“*Restoration of Decorative Surfaces*” added 8-8-2023 by O-21701 N.S.; effective 1-1-2024.)