

**TOWN OF HOT SULPHUR SPRINGS
PUBLIC RIGHT OF WAY EXCAVATION/STREET CUT
AND GRADING, EROSION AND SEDIMENT CONTROLS APPLICATION AND PERMIT**

NOTICE: NO CONSTRUCTION SHALL BE PERMITTED ON RECENTLY REPAVED STREETS (WITHIN 2 YEARS) EXCEPT WITH ADVANCE WRITTEN APPROVAL OF TOWN PUBLIC WORKS DIRECTOR. WORK MUST COMMENCE AND BE COMPLETED WITHIN A REASONABLE TIME AFTER ISSUANCE OF THIS PERMIT AS DETERMINED BY PUBLIC WORKS DIRECTOR OR DESIGNEE. ALL WORK MUST BE COMPLETED BY LICENSED CONTRACTOR.

Name of Applicant: _____ ("Permittee")

Address: _____

Phone: _____

Name of Contractor: _____

Address: _____

Phone: _____

Name of Contact available on a 24 hour basis: _____

Phone Number of Contact available on a 24 hour basis: _____

Was this an emergency repair?: Yes No

If yes, this application must be submitted within 2 days of the date the repair was initiated and picked up with fees paid within 5 working days of the date application was submitted.

PROJECT DESCRIPTION:

Purpose of the proposed project: _____

Location (property address, number of feet from nearest intersection, etc.): _____

Length, Width (Square footage) of Excavation: _____

Attach construction plans/standards/specs/ procedures/traffic control plans and diagram:

Existing street surface: gravel or asphalt

Work schedule:

Start date ____/____/____ Completion Date ____/____/____

NOTIFICATION OF COMPLETION/ INSPECTIONS. While the permitted work is in progress, the Town shall be entitled to, but not obligated to, inspect the work and the surrounding area and the Permittee shall cooperate fully with such inspections. At least 24 hours in advance of leaving the site after completion of the Work, the Permittee must schedule an inspection by Public Works. The Public Works Director or his designee shall provide an inspection report with a written punchlist of all deficiencies, if any, that must be corrected prior to acceptance of the work for completion of the permit. The permittee shall complete the punchlist and schedule a final inspection within seven (7) calendar days, unless a written extension is approved by the Public Works Director or his designee. If there are no punchlist items, the completion inspection will be the final inspection. If the completion inspection is not the final inspection, the Permittee shall complete the punchlist and schedule a final inspection within seven (7) calendar days, unless a written extension is approved by Public Works. Failure to complete the punchlist items within the period approved by Public Works and schedule the final inspection is unlawful. If the Public Works inspector does not accept the corrected work at the final inspection, or the work is not completed, Public Works may either provide a reasonable extension of time to bring the work into compliance or assess a notice of violation.

STANDARDS. Any excavation, cut, trench or opening in or under any paved street shall be repaired with asphalt substantially similar to that used in the original pavement of the street. The asphalt and dirt shall have a compaction of ninety percent (90%), tested and approved by a certified person at Applicant/Permittee's expense. A copy of the testing results must be provided to the Town.

all ditches, excavation, cuts or trenches must be dug pursuant to OSHA requirements.

SECURITY FOR PERFORMANCE. If the Permitted has fully complied with this permit, the security shall be partially released following review of the work by the Public Works Director and receipt of a sworn statement by Applicant that the work was performed in strict conformity with this permit and all accompanying standards. An amount deemed sufficient by the Public Works Director shall be retained to cover a two year warranty period to cover the costs that the Town would incur to cure any defective work, such retained amount to be released at the end of the two-year warranty period provided that the work survives the two-year warranty period without defect. Partial and complete release of the security must be requested, in writing, by the Permittee from the Town. The security shall be forfeited if the work does not comply with the Town Code and the requirements of this permit. In the event that a defect is the work is discovered or becomes evident during the two (2) year warranty period, then the two (2) year warranty period shall be extended until a date two (2) years after the date such work is repaired or corrected to the satisfaction of the Town and the retained security shall not be released until completion of the extended warranty period. If necessary, the security shall be renewed or extended to cover the additional warranty period.

PERMIT FEE AND SECURITY:

_____ \$_____ Application and Inspection Fee (non- refundable)

_____ Bond, Letter of Credit, or cash deposit amount. This amount shall be set by the Public Works Director in a minimum amount as needed to restore the surface of the ground to its original condition.

_____ Corporate letter of responsibility received

AGREEMENT: The Applicant/Permittee acknowledges by signing below that they have received, reviewed, and understand the requirements set forth in the Town Code of Hot Sulphur Springs, Sections 7-1-1 through 7-1-20, a copy of which is attached hereto. Furthermore, the Applicant/Permittee certifies to the Town that all of the information contained in the application is true. The Applicant/Permittee certifies that the work will be done in strict compliance with the Town Code, standards rules and regulations and with this Permit. Further, Applicant/Permittee hereby agrees to indemnify and hold harmless the Town, its employees, agents and elected officials from and against all claims, judgments, liability, damages or costs incurred as a result of the work that is the subject of this permit or which is completed in reliance on this permit.

Applicant/Permittee's Authorized Signature: _____

Date: _____

Printed Name: _____

Printed Title: _____

Printed Name of Company: _____

TOWN USE ONLY

PERMIT

Permit Number _____

Permit Fee Received: Yes

Security Posted: Yes

Initial Inspection Date(s): _____

Construction Method used: _____

Method used to cut Asphalt: _____

Compaction (comments): _____

Other (comments): _____

Date passed final inspection
(start warranty): _____

Passed by: _____

Date partial funds released: _____

Warranty Period Expiration Date: _____

Approved by: _____ Date: _____

Town of Hot Sulphur Springs

Attest: _____ Date: _____

CHAPTER 1
STREETS, SIDEWALKS AND PUBLIC WAYS
EXCAVATIONS

SECTION:

- 7-1-1: Permit Required; Specifications and Standards
- 7-1-2: Prohibition On Construction Activities – Recently Resurfaced Streets.
- 7-1-3: Application
- 7-1-4: Emergency Repairs
- 7-1-5: Permit Fee
- 7-1-6: Security Required
- 7-1-7: Commencement and Completion
- 7-1-8: Erosion and Sediment Control.
- 7-1-9: Inspections
- 7-1-10: Acceptance
- 7-1-11: Warranty
- 7-1-12: Warranty Inspection
- 7-1-13: Barricades and Lights
- 7-1-14: Width and Minimum of Inconvenience to Public
- 7-1-15: Sidewalks and Gutters Clear
- 7-1-16: Cutting Pavement
- 7-1-17: Daily Cleanup, Damage and Safety
- 7-1-18: Site Restoration
- 7-1-19: Work Hours
- 7-1-20: Enforcement / Notices of Violation and Other Penalties.

7-1-1: PERMIT REQUIRED; SPECIFICATIONS AND STANDARDS.

(A) It shall be unlawful for any person, to excavate, cut, repair, open or trench in or under any street, sidewalk, curb, gutter, curb, walk, alley right of way, or other public place without having first obtained a Permit from the office of the Town Clerk.

(B) It shall be unlawful for any person to perform work that requires grading, erosion and sediment controls without having first obtained a permit from the office of the Town Clerk.

(C) It shall be unlawful for any person to perform maintenance work within the public right-of-way for access to existing facilities or landscaping (including but not limited to manholes, vaults, cabinets, poles or irrigation systems) but which does not cause any surface or ground disturbance and therefore, does not require erosion, sediment control measures, or site restoration, or any work outside of the public rights-of-way that requires traffic control for the closure of a traffic lane or sidewalk, without having first obtained a permit from the office of the Town Clerk.

(D) Construction standards shall apply to construction within Town rights-of-way, as set forth by the

Public Works Director. The permit shall contain rules and regulations which shall be fully complied with by the permittee.

(E) A permit is required when a contractor is performing work under a contract or agreement with the Town, although fees for such permit may be waived.

(F) All work performed under a permit must conform to the construction plans, sketches, and traffic control plans submitted to the Town as part of the permit application and as approved by the Public Word Director or his designee. Unless a conflict between the approved permit and the regulations and the construction standards is noted on the permit, the regulations and standards of this Chapter and/or as determined by the Public Works Director will govern.

7-1-2: PROHIBITION ON CONSTRUCTION ACTIVITIES – RECENTLY RESURFACED STREETS.

(A) Only for good cause shown, construction activities necessitating street cuts shall not be allowed within two (2) calendar years following the last date on which any street section has been paved, overlaid or slurried except for emergency repairs of existing facilities or when approved in advance and in writing by the Town Public Works Director in consultation with an engineer after review of the following criteria:

1. Whether the applicant considered the Town's anticipated resurfacing schedule prior to planning the proposed street cut;
2. Alternatives that eliminate the need for the street cut;
3. Whether the proposed street cut is needed to provide new service to a customer; and
4. Additional restoration requirements, beyond the permanent patch requirements that may be required to restore ride quality and anticipated pavement life. Additional requirements may include resurfacing an area larger than the street cut, replacing or using geogrid or other materials, requiring a longer warranty period, imposing a payment to the Town equal to the anticipated restoration remedy, or a reasonable combination thereof.

(B) In documenting any exception to the prohibition on construction activities within recently resurfaced streets, the Town Public Works Director shall clearly identify the required additional restoration requirements authorized by this section and identify the same on the permit

7-1-3: APPLICATION. Every person desiring to do any of the said work for which a permit under this Chapter is

required shall apply to the office of the Town Clerk for a permit therefor, by filing an application stating the applicant's name, the location, and purpose of the proposed excavation, the dates of commencement and completion of the work, plans, standards, specifications and procedures for the work, a statement that the work will be performed in strict compliance with the plans, specifications and procedures as found on the permit, the name and phone number of a contact person who is available on a twenty-four (24) hour basis in the event the Town becomes aware of an unsafe condition that warrants immediate attention (and the permit holder shall immediately provide updated contact information to the Town Clerk whenever a change occurs) and such other information as may be required on the form of application which shall comply with the provisions of this Chapter.

7-1-4: EMERGENCY REPAIRS. Permits for emergency repairs must be obtained within seven (7) working days following the date the emergency repairs were initiated, in accordance with the timing requirements of this section. Any entity undertaking an emergency repair shall: (1) submit a permit application within two (2) working days following the date the emergency repair was initiated; and (2) pick up the permit and pay any and all applicable fees within five (5) working days thereafter. It shall be a violation of this code for any entity undertaking such emergency repairs to fail to submit a right-of-way permit application or fail to pick up the permit within the timeframes required by this section.

7-1-5: PERMIT FEE. A fee in an amount set by the Board of Trustees by resolution shall be paid to the Town prior to the issuance of any permits required under this Chapter.

7-1-6: SECURITY REQUIRED. Every person applying for an excavation permit and prior to the issuance thereof, shall file a letter of corporate responsibility, post a letter of credit, bond or cash in favor of the Town in a sum to be set by the Public Works Director based on the value of the work to be completed in no less amount than the reasonable anticipated cost of restoring the surface of the ground to its original condition after such excavation and conditioned upon the faithful performance of such work in strict compliance with the specifications, rules, regulations and ordinances of the Town and within the specified time limit; and shall state that such person will indemnify and save harmless the Town against any and all damages or claims for damages, loss, cost, charges or expenses that may be brought against it by any person by reason of such work. The bond or other security shall be discharged, released or refunded to the permittee upon completion of the work, a review of said work by the Public Works Director and a sworn statement by the applicant that he has done the

work in strict compliance with the specifications, rules and regulations and ordinances of the Town, save and except an amount to cover the warranty period as set forth in Section 7-1-11.

7-1-7: COMMENCEMENT AND COMPLETION. All work authorized by permit issued pursuant to this Chapter shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event that weather, process of law, or any other unexpected obstacles to the work cause it to be stopped for so long a time that public travel shall be unreasonably obstructed, or public safety is at risk or adversely affected, the Public Works Director and/or Town Board may order the excavation refilled and repaved as if the work contemplated in the permit was actually completed.

7-1-8: EROSION AND SEDIMENT CONTROL. Erosion and sediment control shall be provided for work where sediment could be discharged outside of the work limits or into a storm drain. Erosion and sediment controls shall be required for, but not limited to, the following work:

- a. Trenching or excavation;
- b. Grading;
- c. Boring or tunneling;
- d. Utility plowing;
- e. Sediment pumped from manholes and vaults that will enter a storm drain; and
- f. Stockpiling excavated or backfill materials.

7-1-9: INSPECTIONS.

(A) Completion Inspection. The permittee or contractor shall schedule a completion inspection with the Town's Public Works Director or his designee a minimum of twenty-four (24) hours in advance of leaving the site after completion of the work. Failure to schedule a completion inspection prior to leaving the site after completing the work is unlawful and a violation of this code and may result in the issuance of a notice of violation or other available penalties in conformity with Section 7-1-20. The Public Works Director or his designee shall provide an inspection report with a written punchlist of all deficiencies, if any, that must be corrected prior to acceptance of the work for completion of the permit. The permittee shall complete the punchlist and schedule a final inspection within seven (7) calendar days, unless a written extension is approved by the Public Works Director or his designee. If there are no punchlist items, the completion inspection will be the final inspection.

(B) Final Inspection. If the completion inspection is not the final inspection, the permit holder or contractor shall complete the punchlist and schedule a final inspection within seven (7) calendar days, unless a written extension is

approved by the Public Works Director or his designee. Failure to complete the punchlist items within the period approved by the Public Works Director or his designee and schedule the final inspection is unlawful, a violation of this code, and may result in the issuance of a notice of violation or other available penalties in conformity with Section 7-1-20. If the Public Works Director or his designee does not accept the corrected work at the final inspection, or the work is not completed, the Public Works Director or his designee may either provide a reasonable extension of time to bring the work into compliance or assess a notice of violation as provided in Section 7-1-20.

7-1-10: ACCEPTANCE. Upon acceptance of the work after the final inspection, the Public Works Director or his designee will sign and date the permit to indicate the start date of the warranty period.

7-1-11: WARRANTY. All work performed under the permit shall be warranted for two (2) years from the date of acceptance. During the warranty period, the permit holder may be notified in writing of any defective work and shall correct the defective work within fourteen (14) calendar days or within the time allowed in writing by the Public Works Director or his designee. The corrective work shall be warranted for two (2) years after completion. Failure to correct the deficiencies within the required time period, or obtain a written extension, is a violation of this Code and may result in the issuance of a notice of violation or other available penalties in conformity with Section 7-1-20. As set forth in Section 7-1-2, a warranty period exceeding two (2) years may be required for construction activities permitted to occur within streets that have recently been resurfaced. During the warranty period, the security posted at the time of permit application may shall be maintained in reduced amount deemed sufficient by the Public Works Director or his designee to cover the costs that the Town would incur to cure any defective work.

7-1-12: WARRANTY INSPECTION. The Public Works Director or his designee will send a notice of warranty inspection to the permittee prior to the warranty expiration date. The notice will indicate that the work is accepted and the permit is closed or it will include a written punchlist of deficiencies that must be corrected within fourteen (14) calendar days or the within time allowed in writing by the Public Works Director or his designee. The permittee shall notify the Public Works Director or his designee after the punchlist is completed. Failure to complete the punchlist within the required time period, or obtain a written extension, may result in the issuance of a notice of violation as set forth in Section 7-1-20.

7-1-13: BARRICADES AND LIGHTS. Every person making or causing to be made any excavation shall keep the

excavation barricaded at all times and between the hours of sunset and sunrise, he shall keep such excavation properly lighted so as to warn all persons thereof.

7-1-14: WIDTH AND MINIMUM OF INCONVENIENCE TO PUBLIC. No opening excavation shall be undercut or have a greater width at the bottom than at the top. In no case shall more than one-half (1/2) of the width of any street, alley or other public place be opened or excavated at any one time, and, in all cases, one-half (1/2) of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half (1/2) is restored for safe use. All such work shall be performed in such a way as to cause minimum inconvenience and restrictions to the public and to both pedestrian and vehicular traffic.

7-1-15: SIDEWALKS AND GUTTERS CLEAR. It shall be unlawful for any person to perform any excavation or to place any dirt or other materials upon any sidewalk or in any gutters and such work shall be performed so as to permit the free passage of water along the gutters.

7-1-16: CUTTING PAVEMENT. In any excavation work on or under any paved street, the pavement must be cut with an asphalt spade or other tool designed for that purpose, to be approved by the Public Works Director or his designee. The width of all cuts in the pavement shall be sufficient so that all excavation in or under any paved street can be accomplished without disturbing or lifting the surrounding pavement.

7-1-17: DAILY CLEANUP, DAMAGE, AND SAFETY.

(A) Daily Cleanup: Upon completion of each day's work, the permit holder is responsible for ensuring that all litter, construction debris and other waste materials resulting from the work is removed from the site and the site is left in a neat and orderly appearance. The street pavement and sidewalk shall be swept daily, if determined necessary by the Public Works Director or his designee, for dust control and to remove mud or loose material resulting from the work.

(B) Property Damage: Any damage to public or private facilities as a result of the permitted work shall be the responsibility of the permittee.

(C) Safety: The permittee assumes full and complete responsibility for job site conditions and the safety of all persons and property within the job site during the course of the permitted activity.

(D) Water Pumped onto the Street. Sediment and/or debris from water that is pumped out of structures during the permitted work on residential streets shall be contained within the work area and removed from the street. Sediment shall not flow to the gutter or ditch without providing inlet protection and/or sediment control devices

for containment. The contractor shall clean the street and gutters whenever sediment is pumped out of a work area. Failure to provide sediment control when sediment is discharged outside of the work area may result in the issuance of a notice of violation or other penalty as provided in Section 7-1-20.

7-1-18: SITE RESTORATION. All repairs shall cause the street and other property to be returned to a condition equal to or better than the condition prior to the work within seven (7) calendar days of the work being substantially complete, unless the permittee receives written approval for an extended date from the Public Works Director or his designee. Site restoration may include final street and sidewalk sweeping, vegetation and landscape restoration, pavement striping, utility locating paint and flag removal and removal of erosion and siltation controls. The work is substantially complete when the major items of work on a permit, such as the repair or installation of a structure or utility, are complete, as evidenced by opening the street to traffic and removing materials, equipment and/or traffic controls.

7-1-19: WORK HOURS.

(A) Work hours are limited to 8:00 a.m. to 5:00 p.m. Monday through Friday on residential streets.

(B) Work hours are limited to 8:30 a.m. to 3:30 p.m. Monday through Friday on arterial and collector streets.

(C) Permitted night work on arterial and collector streets shall begin no earlier than 7:00 p.m. and end by 5:00 a.m. on the following day.

(D) No work is permitted on Saturday, Sunday or Town designated holidays without approval of the Public Works Director or his designee.

(E) Traffic control setup and removal shall be performed within the specified working hours, unless approved otherwise on the Permit's traffic control plan. Preparations that do not interfere with vehicular or pedestrian movement are allowed.

(F) For work requiring a lane closure outside of the specified hours, written approval must be provided by the Public Works Director or his designee.

(G) If work occurs outside of the above referenced working hours without written approval, a notice of violation as provided in Section 7-1-20 may be issued.

7-1-20: ENFORCEMENT / NOTICES OF VIOLATION AND OTHER PENALTIES.

(A) A notice of violation may be issued by the Public Works Director or his designee when a permit is not obtained prior to starting work or work performed under the permit is not in compliance with this Chapter or the permit. The permittee shall be assessed a civil penalty amount of \$500 for each violation (and each date of a

continuing violation shall be considered a separate violation subject to a separate civil penalty amount). Civil penalty amounts for second and subsequent notices of violation shall be doubled. The Public Works Director or his designee will identify the violations or deficiencies that must be corrected.

(B) A notice of violation issued for working without a permit must be corrected within one (1) business day and other corrective actions must be initiated within three (3) business days and corrected within five (5) business days, unless extensions are approved by the Public Works Director or his designee in writing.

(C) If the corrections are not completed by the date required on a notice of violation, an additional notice of violation with the associated civil penalty amount to be assessed, may be issued by the Public Works Director or his designee.

(D) The Public Works Director or his designee is authorized to revoke any permit for failure to comply with this Chapter, the permit terms and conditions or other applicable laws or regulations.

(E) Upon issuance of a notice of violation, the permittee shall secure the site(s), provide the necessary traffic control and discontinue all non-corrective work within the public right-of-way. No further work will be allowed until the corrections are completed and approval is provided by the Public Works Director or his designee.

(F) Permit applications for any entity with a notice of violation outstanding will not be processed until all applicable outstanding fees have been paid to the Town by the permittee and the Town has verified that all outstanding amounts have been collected. The Town may seek payment of an unpaid notice of violation through a call on posted security.

(G) The Public Works Director or his designee shall be authorized, in consultation with the Town Attorney and law enforcement officials, to issue a summons and complaint for any violation of this Chapter.

(H) Any person who violates this Chapter shall be subject to forfeiture of the posted security, restitution to the Town in the amount required to repair any damages to the public right of way or places, and/or a fine.

(I) The minimum fine imposed shall be one hundred dollars (\$100.00) with a maximum up to the general penalty amount per violation as set forth in Section 1-4-1 of this Code and the Court shall not reduce or suspend any portion thereof.