

## ORDINANCE NO. 2017-08-01

**AN ORDINANCE OF THE CITY OF WESTON, COLLIN COUNTY, TEXAS, AMENDING ORDINANCE 2015-02-02, THE CITY'S RIGHT-OF-WAY CONSTRUCTION REGULATIONS; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500) PER DAY, PROVIDING FOR PUBLICATION; PROVIDING FOR REPEALER, SEVERABILITY, AND SAVINGS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Weston, Texas is a Type A general-law municipality located in Collin County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the City of Weston has the control and jurisdiction of the public streets and other rights-of-way of the City, with the right to regulate or prohibit the location of pipes, cables, lines, wires, or other facilities in the rights-of-way; and

**WHEREAS**, without proper regulation, the placement of such facilities within the rights-of-way will conflict with the primary uses of the rights-of-way and will reduce the efficient use of limited space for facilities; and

**WHEREAS**, in accordance with applicable federal law, including but not limited to, 47 U.S.C. §253(c) and state laws, including but not limited to Tex. Util. Code §14.008 and §54.205, Article 1175(2), V.T.C.S., and Local Government Code §283.056, the City seeks to exercise its historical rights to control and manage its rights-of-way, and implement certain police power regulations in the use of those rights-of-way, in a competitively neutral and non-discriminatory basis; and

**WHEREAS**, the City Council of the City of Weston deems it necessary to adopt this ordinance regulating the placement and maintenance of utility facilities within the public rights-of-way to promote public safety and convenience and to assure the efficient and orderly use of the rights-of-way by the many gas, electric, cable, and telecommunications providers so that the best interests of the public are served;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON, TEXAS:**

### **SECTION 1 AMENDMENTS**

1. Section 18, Performance Standards, of Ordinance 2015-02-02 is hereby amended to read as follows:

*"1. It is the City's policy to avoid cutting streets or sidewalks unless it is demonstrated to be necessary due to underground obstacles or other circumstances that make boring impractical. However, when a street or sidewalk cut is necessary, the street or sidewalk cut must be fully described in the construction plans submitted with the permit application."*

2. Section 23, Restoration of Public Rights-of-Way, of Ordinance 2015-02-02 is hereby amended to read as follows:

*"1. When a Permittee completes construction, expansion, reconstruction, removal, excavation, or other work, the Permittee shall promptly notify the City. The City will then have the damaged Right-of-Way repaired and the Permittee will be responsible for the exact cost of those repairs.*

*2. Although no work will be permitted on private property adjacent to public rights-of-way, the Permittee must, as a result of construction within the public rights-of-way, restore the adjacent private property to a condition at least as good as existed immediately prior to work commencing."*

### **SECTION 2 PENALTY**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Five hundred dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

### **SECTION 3 CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby

repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect

**SECTION 4**  
**PROVISIONS SEVERABLE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5**  
**SAVINGS CLAUSE**

All rights and remedies of the City of Weston, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting safety and health hazards which have secured the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**SECTION 6**  
**PUBLICATION IN OFFICIAL NEWSPAPER**

The City Secretary of the City of Weston is hereby directed to publish this Ordinance or its caption and penalty in the official City newspaper as required by Section 52.011 of the Texas Local Government Code.

**SECTION 7**  
**EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED by Council this, the 8<sup>th</sup> day of August, 2017.



APPROVE

*Patti Harrington*  
Patti Harrington, Mayor

ATTEST

*Susan M. Coffey*  
Susan Coffey, City Secretary