0087-ORD
07/15/97

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5009

AN ORDINANCE relating to the Right-of-Way Use Code (Chapter 14.30 of the Bellevue City Code); amending Section 1 (parts) of Ordinance No. 3533 and Sections 14.30.050, .060, .070, .080, .090, .100, .110, .120, .130, .150, .200 and .210 of the Bellevue City Code; adding new Sections 14.30.185, .195 and .205 to the Bellevue City Code; and establishing an effective date.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 1 (part) of Ordinance No. 3533 and Section 14.30.050 of the Bellevue City Code are amended to read as follows:

14.30.050 Definitions.

The following words and phrases when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

A. "Citation and Notice" means a written document initiating a criminal proceeding after an arrest and issued by an authorized peace officer, in accordance with the Justice Court Criminal Rules.

B. "City Inspector" - means the designated employee(s) of the Department responsible for inspecting the installation of warning and safety devices in the public right of way and restoration of public rights of way disturbed by work.

C. "City" means the City of Bellevue, Washington.

D. "Complaint" means a written document certified by the prosecuting attorney initiating a criminal proceeding in accordance with the Justice Court Criminal Rules.

E. "Department" means the Transportation Department or other department designated by the City Manager.

F. "Directive Memorandum" means a letter from the City to a right-of-way use permittee notifying the recipient of specific nonconforming or unsafe conditions and specifying the date by which corrective action must be taken.

G. "Director" means the Director of the Transportation Department, or his/her designated representative, or other person designated by the City Manager.

H. "Emergency" means a condition of imminent danger to the health, safety, and welfare of property or persons located within the City including, but not limited to, damage to persons or property from natural or man-made consequences, such as storms, earthquakes, riots or wars.

I. "Franchised Utilities" means utilities that have City approval to use City right of way for the purpose of providing their services within the City, whether by written franchise granted by the City or otherwise.

J. "Non-Profit" means not for a monetary gain unless for charitable purposes.

K. "Notice of Violation" means a document mailed to a permittee or unauthorized user and posted at the site of a nonconforming or unsafe condition.

L. "Oral Directive" means a directive given orally by City personnel to correct or discontinue a specific condition.

M. "Permit"means a document issued by the City granting permission to engage in an activity not allowed without a permit.

N. "Permit Center" means the central location for applying for permits.

O. "Person" means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

P. "Private Use" means use of the public right of way for the benefit of a person, partnership, group, organization, company, or corporation, other than as a thoroughfare for any type of vehicles, pedestrians or equestrians.

Q. "Procedure" means a procedure adopted by the Director, to implement this code, or to carry out other responsibilities as may be required by this code or by other codes, ordinances, or resolutions of the City or other agencies.

R. "Right of Way" means all public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, bikeways and horse trails, whether improved or unimproved, including the air rights, sub-surface rights and easements related thereto.

S. "Stop Work Notice" means a notice posted at the site of activity that requires all work to be stopped until the City approves continuation of work.

T. "Telecommunications Carrier" means every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the City, used or to be used for the purpose of offering and providing telecommunications services.

U. "Telecommunications Facilities" means the plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics, poles, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

V. "Telecommunications Provider" means every person who provides telecommunications services over telecommunications facilities without any ownership or management control of the facilities.

W. "Telecommunications Service(s)" means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

X. "Traffic Engineering Services Division" means the Traffic Engineering Services Division of the Transportation Department or other City division designated by the City Manager.

Y. "Underground Location Service" means the Underground Utilities Location Center that will locate all underground utilities prior to an excavation.

Z. "Unsafe Condition" means any condition which the Director determines is a hazard to health, or endangers the safe use of the right of way by the public, or does or may impair or impede the operation or functioning of any portion of the right of way, or which may cause damage thereto.

Section 2. Section 1 (part) of Ordinance No. 3533 and Section 14.30.060 of the Bellevue City Code are amended to read as follows:

14.30.060 Powers of the Director.

The Director shall have the power to:

A. Administer the provisions of this code including but not limited to interpreting the code and issuing rules necessary for its administration. The Director may correct errors and omissions and is authorized to adjust the amount of fees required by this code to be proportional to the scope of the work for which the permit is required.

B. Administer and coordinate the enforcement of this code and all procedures adopted hereunder relating to the use of rights of way.

C. Advise the City Council, City Manager and other City departments on matters relating to use of the right of way.

D. Carry out such other responsibilities as required by this code or other codes, ordinances, or procedures of the City.

E. Request the assistance of other City departments to administer and enforce this code.

F. Assign the responsibility for interpretation and application of specified procedures to the Traffic Engineering Services Division.

Section 3. Section 1 (part) of Ordinance No. 3533 and Section 14.30.070 of the Bellevue City Code are amended to read as follows:

14.30.070 Permit Requirements.

A. It is unlawful for anyone to make private use of any public right of way without first having obtained a Right-Of-Way Use Permit issued by the City or to use any right of way without complying with all the provisions of such Right-Of-Way Use Permit issued by the City; provided that a Right-of-Way Use Permit shall not be required for any use or activity subject to and requiring a permit pursuant to the City's Special Events Policy permit process.

B. Any telecommunications carrier or provider who desires to construct, install, operate, maintain, or otherwise locate telecommunications facilities in, under, over or across any right of way of the City for the purpose of providing telecommunications services shall first obtain authorization in the form of a Telecommunications Right-of-Way Use Agreement authorizing the use of such right of way consistent with the requirements and conditions of such Agreement.

C. General and specific permit requirements are defined in the procedures referenced in this code.

D. All permit applicants shall, before commencing any construction in City right of way, comply with all requirements of chapter 19.122 RCW, the One Number Locater Service.

Section 4. Section 1 (part) of Ordinance No. 3533 and subsections (B) and (C) of Section 14.30.080 of the Bellevue City Code are amended to read as follows:

14.30.080 Right-of-Way Use Permits.

B. Type B - Short Term Profit.

1. Type B permits may be issued for use of right of way for 72 or fewer continuous hours for for-profit purposes which do not involve the physical disturbance of the right of way.

2. This type of use may involve disruption of pedestrian and vehicular traffic or access to private property and may require inspections, clean-up and police surveillance. For periods longer than 72 hours these uses will be considered Type D, Long Term or Permanent.

3. Type B permits include, but are not limited to the following when they are for profit purposes:

a. Fairs;
b. House moves;
c. Temporary sale of goods;
d. Temporary street closures.

C. Type C - Disturbance of City Right of Way

1. Type C permits may be issued for use of right of way for activities that will alter the appearance of or disturb the surface, super-surface or sub-surface of the right of way on a temporary or permanent basis.

2. Type C permits may be for either single uses or multiple uses. Type C single use permits will be issued to approved applicants who are planning a single type C activity at a single location in a short period of time.

3. Type C Multiple Use Permits will be issued to approved applicants who are planning many Type C routine maintenance activities at several different locations in a short period of time.

4. Type C permits include but are not limited to:

a. Boring;
b. Culverts;
c. Curb Cuts/Driveways;
d. Drainage Facilities;
e. Fences;
f. Landscaping;
g. Painting;
h. Sidewalks;
i. Street Trenching;
j. Utility Installation.

D. Type D - Long Term and Permanent

1. Type D permits may be issued for use of right of way for activities for extended periods of time but which will not physically disturb the right of way.

2. The use of right of way for structures, facilities, and uses that involve capital expenditures and long term commitments of use require this type of permit.

3. Type D permits include but are not limited to:

a. Air rights ;
b. Bus shelters/stops;
c. Construction site/haul roads;
d. Loading Zones;
e. Mobile peddling;
f. Newspaper sale;
g. Recycle facilities;
h. Sales structures;
i. Sidewalk cafes;
j. Special and unique structures; fountains, clocks, flag poles, awnings, marquees, benches, kiosks, signs, mail boxes, banners, street furniture, decorations;
k. Underground rights;
l. Utility facilities;
m. Waste facilities.

Type A uses that exceed 24 hours and Type B uses that exceed 72 hours will be treated as Type D uses.

Section 5. Section 1 (part) of Ordinance No. 3533 and Section 14.30.090 of the Bellevue City Code are amended to read as follows:

14.30.090 Applications and Processing of Permits.

A. To obtain a Right-Of-Way Use Permit the applicant shall file an application with the Transportation Department or other department designated by the City Manager.

B. Every application shall include the location of the proposed right-of-way use, a description of the use, the planned duration of the use, applicant contact information, and all other information which may be required as specified in procedures adopted hereunder, and shall be accompanied by payment of the required fees.

Certain applicants such as utilities or franchised utilities may be involved in frequent use of the right of way for repair, maintenance and construction in a short period of time. To avoid the issuance of a new permit for each use, the City will issue a 90 day permit for multiple use.

C. The Director shall examine each application submitted for review and approval to determine if it complies with the applicable provisions of this code and procedures adopted hereunder. Other departments that have authority over the proposed use activity will be required to review and approve or disapprove the application. The Director may inspect the right of way proposed for use to determine any facts which may aid in determining whether a permit should be granted. If the Director finds that the application conforms to the requirements of this code and procedures adopted hereunder, that the proposed use of such right of way will not unduly interfere with the rights and safety of the public, and if the application has not been disapproved by a department with authority, he may approve the permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare and safety and to mitigate any impacts resulting from the use.

D. All applications for permits will be submitted 30 days or more before the planned need for the permit. If unforeseen conditions require expedited processing time the City will attempt to cooperate, but additional fees to cover additional costs to the City may be charged.

E. Upon submittal of a completed application, the Traffic Engineering Services Division shall collect from the applicant an application fee per the fee schedule adopted by the council. Permittees who have an approved monthly billing status will continue with that process.

Section 6. Section 1 (part) of Ordinance No. 3533 and Section 14.30.100 of the Bellevue City Code are amended to read as follows:

14.30.100 Permit Fees and Charges.

A. The fee for each permit shall be set forth in a fee schedule to be adopted by the City Council. Fees and charges adopted pursuant to this section may be increased or decreased by the Council on the Director's recommendation in accordance with changes in the costs incurred by the city. The City Council shall, upon recommendation of the Director, establish the amount, rates and formulas for the following fees and charges:

B. Fees and Charges.

1. Application Fee. A non-refundable application fee shall be charged for each Right-of-Way Use Permit application that is accepted for processing. This fee covers the costs of initial processing, counter service and record keeping. The application fee shall be the same for all types of Right-Of-Way Use Permits.

2. Processing of Application Fee. A fee for the processing of applications shall be charged. The amount of the fee shall be determined based upon the time and cost required to review, inspect, research and coordinate the applicants' data for each permit application.

3. Surface Cut Fee. A base fee will be charged for all permits that authorize surface cuts to any improved right of way. The base fee shall be charged for surface cuts less than 100 square feet or less than 100 feet in length. An additional fee shall be charged for surface cuts of more than 100 square feet or more than 100 feet in length based upon the relative size of the cut. An additional fee shall be charged for each additional square foot in 100-square-foot increments. All fees will be doubled for cutting into improved right of way less than five years old.

4. Multiple Use Fees. The fees for this special type C permit will depend upon the number of uses, size of each use, reporting requirements, coordination and purposes of use. One application is required and one permit will be issued for an estimated number of uses. Upon application, the fee charged will be the same as for a Type C permit. Upon expiration of the permit, the total amount due the City shall be computed based on the actual number of uses of the permit, and the balance due shall be paid by the permittee.

5. Excess Inspection Costs. The City may incur extra costs of inspection for certain permits that require more than the usual number of inspections. These costs may be incurred because of situations related to observed quality of work, traffic problems, schedule problems and cooperation of the permittee. Excess inspection fees will be charged based on the hourly rate of actual costs incurred by the City to make the excess inspections.

6. House Move Charges. When a house move permit is issued the City shall impose a charged based on the actual cost to compensate for its time and expense. These costs may include street crews, signal crews and police, if required to assist in the move. A minimum fee will be charged at the time of permit issuance based on 4 hours of City crew time. A refundable deposit will also be required, which will be equivalent to the amount of the minimum fee. Costs for damage to City property occurring as a result of the move, or assistance on the house move by City crews in excess of 4 hours, shall either be deducted from the deposit or billed to the house mover and permittee directly.

7. Repair and Replacement Charges. If the City should incur any costs in repairing or replacing any property as the result of the permittee's actions, the costs of repair and replacement will be charged to the permittee. These charges will be for the actual costs to the City.

7.1 City Cost Reimbursement. When the City performs work in the right of way and finds it necessary to maintain, support, or move a telecommunications provider's or franchisee's equipment and/or facilities in order to protect such equipment or facilities or for any other reason, the City's costs associated therewith will be billed to that telecommunications provider or franchisee and must be paid within thirty (30) days from the date of billing.

7.2 Each telecommunications provider and franchisee shall be responsible for the cost of repairing any equipment or facilities in the right of way which such telecommunications provider or franchisee may damage. Each telecommunications provider and franchisee shall be responsible for the cost of repairing any damage to the equipment of another telecommunications provider or franchisee caused during the City's response to an emergency occasioned by that telecommunications provider or franchisee's actions.

8. Waiver of Fees: Franchised utilities which must apply for permits because of city-initiated construction projects may be granted a waiver by the Director of normal permit fees. This provision only applies to work that would not otherwise have been done by the utility.

C. Review and Adjustment of Fees and Charges.

1. The Director will initiate, as needed, a review of Right-Of-Way Use Permit fees and charges to determine their continuing capacity to offset costs incurred by the City in providing services related to the administration of Right-Of-Way Use Permits.

2. The Director may recommend to the City Council increases or decreases in the amounts, rates, and formulas of the subject fees and charges to reflect changes in the City's costs in providing the related services. Factors to be considered by the Director include the costs of labor, materials, supplies, vehicles and equipment, taxes and changes in operating procedures.

3. The City Council will review and approve all changes to fees and charges.

Section 7. Section 1 (part) of Ordinance No. 3533 and Section 14.30.110 of the Bellevue City Code are amended to read as follows:

14.30.110 Specifications.

All work to be performed under any permit issued under this code shall conform to all other City codes, the current Development Standards of the Transportation Department and all other standards used by the City in the administration of this code.

Section 8. Section 1 (part) of Ordinance No. 3533 and Section 14.30.120 of the Bellevue City Code are amended to read as follows:

14.30.120 Permit Exception.

A. A Right-of-Way Use Permit shall not be required of utilities or franchised utilities when responding to emergencies that require work in the right of way, such as water or sewer main breaks, gas leaks, downed power lines or similar emergencies, provided that the Department shall be notified by the responding utility or City contractor

verbally or in writing, as soon as practicable following onset of an emergency. Nothing herein shall relieve a responding utility or City contractor from the requirement to apply for a Right-of-Way Use Permit within 48 hours after beginning emergency work in the right of way.

B. The Director shall determine whether permits shall be required for routine maintenance and construction work performed by City utilities and City maintenance crews.

Section 9. Section 1 (part) of Ordinance No. 3533 and Section 14.30.130 of the Bellevue City Code are amended to read as follows:

14.30.130 Revocation of Permits.

A. The Director may revoke or suspend any permit issued under Section 14.30.090 whenever:

1. The work or activity does not proceed in accordance with the plans as approved, or conditions of approval, or is not in compliance with the requirements of this code or procedures, or other City ordinances or state law;

2. The City has been denied access to investigate and inspect how the right of way is being used;

3. The permittee has made a misrepresentation of a material fact in applying for a permit;

4. The progress or condition of the approved work or activity indicates that it is or will be inadequate to protect the public and adjoining property or the street or utilities in the street, or any excavation or fill endangers or will endanger the public, the adjoining property or street, or utilities in the street.

B. Upon suspension or revocation of a permit, all use of the right of way shall cease, except as authorized or directed by the Director.

Section 10. Section 1 (part) of Ordinance No. 3533 and Section 14.30.150 of the Bellevue City Code are amended to read as follows:

14.30.150 Assurance Device/Insurance.

A. If the Director determines that there is a potential for injury, damage or expense to the City as a result of damage to persons or property arising from an applicant's proposed use of any right of way, the applicant may be required to make a cash deposit with the Finance Department or to provide an assurance device or insurance in a form acceptable to the Director for the activities described in the subject permit. The

amount of the cash deposit, assurance device or insurance shall be determined by the Director.

B. The requirements for performance deposits and insurance are based on considerations of the applicant's prior performance, nature of the proposed use, cost of the activity, length of use, public safety, potential damage to right of way and potential liability or expense to the City.

C. In each case where the City requires or allows an applicant to provide an assurance device, the Director shall determine the type of assurance device that will be used. The assurance device may be a non-revocable letter of credit, set-aside letter, assignment of funds, certificate of deposit, deposit account, bond, or other readily accessible source of funds. A bond will be accepted only when circumstances make a bond the only reasonable form of assurance as determined by the Director, and the bond adequately protects the interests of the City, or when a bond is required by state statute.

D. Interest from any interest-bearing form of assurance device will accrue to the benefit of the depositor.

E. If after the date by which the required work or improvements are to be completed under a performance assurance device, the Director determines that the work or improvements have not been complied with, he/she shall notify the applicant. The notice must state:

1. The work that must be done or the improvement that must be made to comply with the requirements and the assurance device; and

2. The amount of time that the applicant has to commence and complete the required work or improvements; and

3. That, if the work or improvements are not commenced and completed within the time specified, the City will use the proceeds of the assurance device to have the required work or improvements completed.

F. If the work or improvements covered by the assurance device are not completed within the time specified in the notice given under subsection E of this section, the City shall obtain the proceeds of the device and do the work or make the improvements covered by the device. The City may either have employees of the City do the work or make the improvements or, by using procurement procedures established by law, have a contractor do the work or make the improvements.

G. If at any time the Director determines that actions or inaction associated with any assurance device have created an emergency situation endangering the public health, safety, or welfare, creating a potential liability for the City, or endangering City streets, utilities, or property; and if the nature or timing of such an emergency precludes the notification of applicants as provided in subsection E of this section while still minimizing or avoiding the effects of the emergency, the City may use the assurance

device to correct the emergency situation. The City may either have employees of the City do the work or make the improvements, or may have a contractor do the work or make the improvements. If the City uses the assurance device as provided by this section, the applicant shall be notified in writing within four days of the commencement of emergency work. The notice must state the work that was completed and the nature or timing of the emergency that necessitated the use of the assurance device without prior notification.

H. The permit owner is responsible for all costs incurred by the City in doing the work and making the improvements covered by the assurance device. The City shall release or refund any proceeds of a performance device remaining after subtracting all costs for doing the work covered by the device. The owner of the permit shall reimburse the City for any amount expended by the City that exceeds the proceeds of the device. The City shall have a claim against the owner for the amount of any excess.

I. In each case where the City uses any of the proceeds of the device, it shall give the owner of the permit an itemized statement of all proceeds and funds used.

Section 11. Section 1 (part) of Ordinance No. 3533 and Section 14.30.200 of the Bellevue City Code are amended to read as follows:

14.30.200 Warning and Safety Devices.

A. Warning lights, safety devices, signs and barricades shall be provided on all rights of way when at any time there might be an obstruction or hazard to vehicular or pedestrian traffic. All obstructions on right of way shall have sufficient barricades and signs posted in such a manner as to indicate plainly the danger involved. Warning and safety devices may be removed when the work for which the Right-Of-Way Use Permit has been granted is complete and the right of way restored to the conditions directed by the Department.

B. As a condition for the issuance of any Right-of-Way Use Permit, the Traffic Engineering Services Division may require an applicant to submit a traffic detour plan showing the proposed detour routing and location and type of warning lights, safety devices, signs and barricades intended to protect vehicular or pedestrian traffic at the site for which the Right-of-Way Use Permit is requested. If a traffic plan is required, no Right-of-Way Use Permit will be issued until the traffic plan is approved.

C. Unless otherwise specified in adopted right-of-way use procedures the current editions of the following standard manuals shall apply to the selection, location, and installation of required warning and safety devices, provided that the Traffic Engineering Services Division or the City Inspector may impose additional requirements if site conditions warrant such enhanced protection of pedestrian or vehicular traffic.

1. Manual on Uniform Traffic Control Devices for Streets and Highways, as adopted by the Federal Highway Administration.

2. Development Standards, City of BellevueTransportation Department.

3. Part VIII, "Regulations for Use of Public Streets and Projections over Public Property", Uniform Building Code.

D. Any Right-of-Way Use Permit that requires a partial lane or street closure will require a licensed flagperson, properly attired, or an off-duty police officer for the purpose of traffic control during the construction. The use of police officers is mandatory for manual control of traffic at signalized intersections.

E. All decisions of the designated City Inspector shall be final in all matters pertaining to the number, type, locations, installation, and maintenance of warning and safety devices in the public right of way during any actual work or activity for which a duly authorized Right-of-Way Use Permit has been issued.

F. Any failure of a permit holder to comply with the oral or written directives of the City Inspector related to the number, type, location, installation, or maintenance of warning and safety devices in the public right of way, shall be handled as provided for in this Chapter 14.30 and in Right-of-Way Procedure P-190.1, "Correction and Discontinuance of Unsafe, Nonconforming, or Unauthorized Conditions."

Section 12. Section 1 (part) of Ordinance No. 3533 and Section 14.30.210 of the Bellevue City Code are amended to read as follows:

14.30.210 Debris and Spilled Loads in the Right of Way.

A. Whenever it is necessary for the safety of the public, the City may remove any obstructions, hazards or nuisances from rights of way; and anyone causing the obstructions, hazards or nuisances shall be responsible for reimbursing the City for the expense of such removal.

B. The owner or operator of any vehicle which has spilled, dropped, dumped or in any manner whatsoever deposited any matter upon the right of way shall cause the right of way to be cleaned to the satisfaction of the Department. Upon failure to do so the Department may cause to have cleaned the right of way and the costs thereof shall be charged to the person or persons so responsible. The Department has the authority to designate haul routes and time of day for operations involving hauling over public right of way.

C. Earth hauling contractors, builders, or anyone else utilizing vehicles upon rights of way shall provide persons or equipment to keep the right of way clean at all times to the satisfaction of the Department. Upon failure to do so, the Department may issue an immediate stop work order, revoke City permits, and the responsible person or persons may be directed to immediately clean the right of way to the satisfaction of the Department.

Upon failure to do so the Department may cause to have cleaned the right of way and charge the costs thereof to the person or persons so responsible.

Section 13. A new Section 14.30.185 is added to the Bellevue City Code to read as follows:

14.30.185 Relocation. Whenever the City undertakes or approves the construction of any sewer, water or storm drainage line (8 inch inside diameter or larger) or other street improvement project including, without limitation; installation of traffic signals, street lights, INET system, sidewalks and pedestrian amenities, wherein the facility so constructed or approved is or shall become, by gift, transfer, dedication or otherwise, a public facility owned, maintained or operated by the City, and such project necessitates the relocation of any utility company's then existing facilities, the City shall:

A. Provide such utility company written notice requiring such relocation at least ninety (90) days prior to the commencement of such improvement project; and

B. Provide such utility company with copies of pertinent portions of the plans and specifications for such street improvement project so that such utility company may relocate its facilities to accommodate such street improvement project. No later than eighty (80) days after receipt of such notice and plans and specifications, such utility company shall complete the relocation of its facilities so as to accommodate such improvement project, at no charge or expense to the City, at least ten (10) days prior to commencement of construction of such improvements; provided, that such 80 day notice period shall be extended by mutual agreement if necessitated by occurrence of an "Act of God".

C. If the City requires the subsequent relocation of such utility company's facility within five years of the date of relocation of the same facility pursuant to this Section, the City shall bear the entire cost of such relocation.

D. As to any relocation of a utility company's facilities wherein the cost and expense thereof is to be borne by such utility company in whole or in part, in accordance with this Section, such utility company may, after receipt of written notice requesting relocation, submit to the City written alternatives to such relocation. Upon receipt, the City shall evaluate such alternatives and shall timely advise such utility company in writing if one or more of the proposed alternatives is suitable to accommodate the work which would otherwise necessitate relocation of such facilities. If so requested by the utility company, the City shall give each alternative proposal full and fair consideration. In no case shall the City arbitrarily reject reasonable alternatives. In the event that the City is satisfied, after due consideration, that there is no other reasonable alternative, the utility company shall relocate its facilities as otherwise provided in this Section. The City's determination that there is no reasonable alternative shall be conclusive and shall not be subject to any City administrative appeal process.

Section 14. A new Section 14.30.195 is added to the Bellevue City Code to read as follows:

14.30.195 Shared Use of Excavations. If at any time, or from time to time, a utility company submits a permit request to excavate for installation of its facilities, the City may request in writing that such utility company provide an opportunity to install City facilities within the excavation; provided, that:

A. Such joint use shall not unreasonably delay the work of the utility company's excavation; and

B. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties.

C. To the extent reasonably possible, the utility company, shall at the direction of the City, cooperate with the City and provide other private utility companies with the opportunity to utilize joint or shared excavations in order to minimize disruption and damage to the right-of-way as well as to minimize traffic-related impacts. In the event the City directs a utility company to utilize joint or shared excavations with another utility company, then such utility company shall install facilities supplied by the City in such joint or shared excavations at no cost to the City for such installation if such utility company agrees that there is a commensurate cost savings to them.

Section 15. A new Section 14.30.205 is added to the Bellevue City Code to read as follows:

14.30.205 Construction Notification Signs.

A. Any work or activity by a utility or a franchise utility or telecommunications company, its contractors or subcontractors, within the public right-of-way that will take at least 4 hours or more, or will be excavating or trenching approximately 100 feet or more shall provide and install temporary construction notification signs.

B. The signs shall include the utility or telecommunication companies name and logo, the companies employee contact name for the project and a phone number for the company.

C. The sign size shall be a minimum of 30 inches by 30 inches and should not exceed 48 inches by 48 inches. All writing, lettering, or numbers shall be not less than four inches in height and be visible and readable by passing motorists.

D. The signs may be installed on temporary posts or Type I barricades. They shall be located at each and of the project facing approaching traffic and/or within the area of any lane closure or construction activity.

E. The signs shall be installed at the start of any construction or activity and shall remain until the construction work or activity has been completed and any restoration has been completed and approved by the City inspector.

F. The Director may approve exceptions to this section where the contractor can show that compliance would be impractical.

Section 16. This ordinance shall take effect and be in force thirty days after final passage by the City Council.

PASSED by the City Council this 21st day of July, 1997, and signed in authentication of its passage this 21st day of July, 1997.

(SEAL)

Ronald E. Smith, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Richard L. Kirkby, Assistant City Attorney

Attest:

Myrna L. Basich

Myrna L. Basich, City Clerk

Published July 25, 1997