

ORDINANCE 2007-08
RIGHT-OF-WAY ENCROACHMENT ORDINANCE
Includes Application

No person shall make an excavation in any street, lane, or alley, or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the Town Manager, Clerk/Recorder, or other authorized representative of the Town.

No person shall excavate any sidewalk without first obtaining a permit from the Town Manager, Clerk/Recorder, or other authorized representative of the Town.

Nothing contained in this part shall be construed to waive the franchise required for any person by the ordinances of this town or laws of the State of Utah.

1. **EXCLUDED EXCAVATION.**

The following types of excavations do not come within the scope of this part: Excavations of any kind in town streets in projects designed, contracted for, and inspected by the Town Engineer or other authorized personnel of the Town.

2. **SUBJECT EXCAVATIONS.**

The following types of excavations are subject to the provisions of this part: Excavations for installation or repair of water lines, sewer lines, gas lines, electrical cable and conduits, telephone cable and conduits, and all other excavations for any other purpose within the street rights-of-way of the Town or in other public places.

3. **PREPARATION.**

The pavement, sidewalk, driveway, or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hardsurfacing. An undercut bevel at the rate of one inch per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be removed immediately from the site of the work.

4. **BACKFILL.**

- a. Materials for backfill will be of select nature. All broken concrete, peat, decomposed vegetable matter and similar materials obtained from excavation will be removed from the site prior to beginning of backfilling. All backfill will be placed in layers not over twelve (12) inches loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers, or similar means. Material for backfilling will have optimum moisture to insure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular free draining materials will be permitted.
- b. The density (dry) of the backfill under pavements, sidewalks, curbs, or other structures will be not less than existing prior to excavation. The fill shall be restored and placed in a good condition that will prevent settling.

5. **RESTORATION OF SURFACES.**

- a. General. All street surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be within five (5) days restored in kind by the excavator, unless otherwise directed by the governing body, in accordance with the specifications contained herein governing the

various types of surfaces involved.

- b. Protection of Paved Surfaces. In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.
- c. **Time.** During the five (5) days, the excavator shall fill the trench with gravel or cold mix daily until permanent repairs are made. If excavation is not permanently repaired after the five (5) days, the Town can repair and charge the excavator. In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces in good condition immediately after backfill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway, and other surfaces, within five (5) days from the date of completion of the backfill.
- d. During any excavation work or the construction on any property within Leeds, the property owner/contractor is responsible for any damage done to the road surface during any phase of the construction. This includes damage done by contractor personnel, subcontractor personnel, or suppliers delivering materials. Any damage done to the road will be repaired by the contractor prior to the issuing of an occupancy permit.

6. **RESTORING BITUMINOUS**

Concrete or asphalt street surfaces.

- a. Temporary Grade Surface. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six (6) inches below the bottom of the bituminous or concrete surface. Normally, this will require nine (9) inches of gravel for bituminous surfaces, twelve (12) inches of gravel for concrete, and zero (0) concrete base for asphalt wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, and rolling, adding gravel, to maintain a safe, uniform surface satisfactory to the Town Engineer until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for gradings:

Passing 1-inch sieve	100%
Passing 3/4-inch sieve	85% - 100%
Passing No. 4 sieve	45% - 65%
Passing No. 10 sieve	30% - 50%
Passing No. 200 sieve	5% - 10%

- b. Bituminous surface. The exposed edges of existing pavement shall be primed with Type MC - 1 bituminous material. The type, grade, and mixture of the asphalt to be used for street surface replacement shall be approved by the Town Engineer. The thickness shall be equal to the adjacent surface thickness but not less than two (2) inches. The complete surface shall not deviate more than one-half (1/2) inch between old and new work.

7. **CONCRETE SURFACES.**

The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six (6) inches thick. The mixing, cement, water

content, proportion, placement, and curing of the concrete will be approved by the Town Engineer. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of twenty-eight (28) days.

8. **CONCRETE BASE, BITUMINOUS WEARING SURFACES.**

This type of surfacing shall be constructed as above described.

9. **GRAVEL SURFACES.**

Trenches excavated through gravel-surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in part CONCRETE SURFACES of this part, except that the gravel shall be a minimum of one (1) inch more than the thickness of the existing gravel.

10. **PROTECTION OF PUBLIC DURING EXCAVATION PROJECT.**

Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate, and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all the excavator's equipment is removed from the site, excavation has been backfilled, and proper temporary gravel surface is in place. From sunset to sunrise, all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares, and other devices. Police and fire departments shall be notified at least twenty-four (24) hours in advance of any planned excavation requiring street closures or detour.

11. **RELOCATION AND PROTECTION OF UTILITIES.**

An excavator shall not interfere with any existing utility without the written consent of the governing body and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by municipality or private enterprise, shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along, or across the work. In case any of the pipes, conduits, poles, wires, or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this part that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage. Such assumption of liability and an agreement to indemnify the Town for any and all liability or costs the Town may incur as a result of such work shall be deemed a contractual obligation that the permittee accepts upon acceptance of an excavation permit. The municipality need not be made a party to any action because of this part. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

12. **JETTING PIPE.**

Jetting pipe by means of water under pressure, or compressed air, is permitted only when approved by the Town.

13. **INSPECTION AND ACCEPTANCE.**

- a. In order to insure proper backfill and restoration of surface, the permittee shall deposit an encroachment bond or cash deposit with the Town Manager, Clerk/Recorder, or other authorized agent payable to the Town of Leeds. The fee amount is to be \$45.00 per square foot of surface for excavation of pavement (including chip/seal), \$6.00 per square foot of

gravel surface and \$3.00 per square foot of unimproved surface. Proof of adequate liability insurance will also be required before an encroachment permit will be granted. The required encroachment bond must be:

- i. With good and sufficient surety.
- ii. By a surety company authorized to transact business in the State of Utah.
- iii. Satisfactory to the municipality attorney in form and substance.
- iv. Conditions upon the permittee's compliance with this part in order to secure and hold the municipality and its officers harmless against any and all claims, judgements, or other costs arising from the excavation and other work covered by the excavation permit or for which the municipality, the governing body or any municipality officer may be made liable by reason of any accident or injury to any person or property through the fault of the permittee arising out of failure to properly guard the excavation or for any other negligence of the permittee.
- v. Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the municipality, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of (twenty-four) 24 months after the work shall be done, usual wear and tear excepted, as it was before the work shall have been done.

A public utility operating or using any of the streets under a franchise from the municipality will not be required to furnish such bond, provided such franchisee agrees to restore the streets and to hold the municipality harmless in the event of any injury to any person or damage to any property due to negligence of such holder in conducting excavation and restoration operations under such franchise.

- b. In order to insure compliance with the terms of this ordinance the permittee shall be required to deposit the sum of \$125.00 as a non-refundable application/inspection fee for use by the Town to defray the cost of processing the application and inspecting any remedial work done by the permittee or its agent(s). Such remedial work shall be deemed completed and accepted by the Town upon written acceptance by the Town Engineer. Following the acceptance by the Town Engineer, the encroachment bond will be released by the Town.
- c. In lieu of the requirements of A and B above, a permittee anticipating multiple projects within the Town during the year may post a guarantee in the form of a bond or other acceptable surety warranting the permittee's repair or replacement of defective work.

14. **APPLICATION FOR STREET EXCAVATION PERMIT** (FORM NO.: ENCROACHMENT APPLICATION.2007).

It shall be unlawful for any person to break, excavate, tunnel, undermine, or in any manner affect the surface or base of any street or to place, deposit, or leave upon any street, any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons first have obtained an excavation permit from the Town Manager, Clerk/Recorder, or other authorized representative of the Town. Public utilities regulated by the State of Utah or holding a franchise from the municipality which in the pursuit of its calling has frequent occasion to open or make excavations in streets, may, upon application, may receive a general permit from the municipality to cover all excavations made by such utilities within the streets of the municipality.

All permits shall be subject to revocation and the municipality may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this part. The excavator shall have a copy of the signed permit with the crew. No changes in the excavation dates shall be permitted without written permission of the Town authority. In the event that an emergency necessitates excavation to save life or property, the excavator must notify the Town Manager, Clerk/Recorder or other authorized representative of the Town as soon as practicable and apply for a permit upon the next regular working day following the emergency.

PASSED AND APPROVED BY THE COUNCIL OF THE TOWN OF LEEDS, UTAH, THIS
_____ DAY OF _____, 2007.

VOTE:

APPLICATION FEE: \$125.00
NON-REFUNDABLE
DATE: _____
RECEIVED BY: _____

Town of Leeds

218 North Main Street, PO Box 460879, Leeds, UT 84746-0879

Phone: 435-879-2447 Fax: 435-879-6905

E-mail: leedstownhall@gwest.net // Website: www.leedsutah.org

APPLICATION FOR RIGHT OF WAY ENCROACHMENT PERMIT
Work cannot begin until permit is granted

Date: _____

Application is hereby made by: _____

Address: _____

Request for permission to do complete the following work:

Project Address/Location:

Attach two (2) copies of the plan for the encroachment work. If possible, new underground utility installation crossing a paved road should be placed by boring. In any case, show the extent to which the Town Right-of-Way will be disturbed by placing poles or underground lines. Include length, width and depth of trenches for underground lines; or vertical clearance and voltage of overhead lines.

Construction will begin on or about _____ and completed on or before _____.

An application fee of \$125.00 will be assessed to all work to defray costs associated with inspections.

A completion guarantee fee is required. The completion guarantee fee will be \$3,000.00 for work up to seventy (70) square feet and \$45.00 per square foot for work over seventy (70) square feet; has been posted with the Town Manager, Clerk/Recorder, or authorized representative of the Town dated: _____.

The portion not required to complete the work will be returned on final inspection by the Town Engineer. Applicant is liable for payment of all expenses caused as a result of the work performed by applicant that exceed the application filing fees. If this permit is granted, the applicant agrees to abide by all of the restrictions and regulations contained in the Leeds Right-of-Way Encroachment Ordinance attached to this application. In addition, safe vehicle and pedestrian traffic conditions must be maintained, including following the guidelines of Part IV of the Manual on Uniform Traffic Control Devices (MUTCD).

SIGNATURE OF APPLICANT - Owner of Contractor

TITLE OF APPLICANT