

<b>City of Brookings Policy</b>	Title: <b>Right-Of-Way Work Policy</b>	
Issue Date: XX/XX/2026	Updated: n/a	
Policy Source: Public Works Department	Policy Audience: City Employees	Total Pages: 4

### **Purpose:**

The purpose of this policy is to establish a formal permit procedure for performing Work within the Right-Of-Way, herein referred to as the “Right-Of-Way Work Permit” (as defined in Section 74-142 of the City of Brookings Municipal Code), to ensure that the usability, structural integrity and life expectancy of these Rights-Of-Way are preserved. The City of Brookings Municipal Code, Chapter 74: Streets, Sidewalks, and Other Public Places; Section I Article IV provides additional clarification of requirements for obtaining a Right-Of-Way Work Permit, as well as an Excavator License.

### **Scope:**

The policy is intended to address the procedures for gaining approval to perform Work within the City Right-Of-Way, as defined in the City of Brookings municipal ordinance code.

### **Applicability:**

The requirements set forth in this policy will apply to all public or private utility companies, contractors, business owners, or homeowners desiring to perform Work within any public Right-Of-Way under the jurisdiction and control of the City of Brookings or any City-owned property. “Work”, as defined in Section 74-142, includes but is not limited to construction, excavation, backfill, trenching, boring, potholing, and demolition. The following types of Work are exempt from this policy: driveway approaches, sidewalk installation or repair, landscaping, irrigation, or other Work that the City Engineer deems exempt.

### **Legal Authority:**

Reference is hereby made to the Municipal Code of the City of Brookings, South Dakota, Chapter 74 Streets, Sidewalks and Other Public Places, Article IV., wherein it is stated that written permission from the Public Works - Engineering Division is required to perform Work upon any street, alley or public ground in the City.

### **Permit Process & Fees (Permit Requirements):**

Any person or entity performing Work within the Right-Of-Way must obtain a Right-Of-Way Work Permit from the Public Works - Engineering Division at least two (2) business days prior to starting the Work, with exceptions to Work performed under direct contract with the City of Brookings or Work performed for emergency repairs to damaged infrastructure. In the circumstance of emergency Work, a permit must be obtained the following business day; failure to do so may incur additional penalties.

A permit fee, pursuant to the City Council approved Consolidated Fee Schedule, is required to be paid in full at the time the application is submitted. Work performed for municipally owned utility companies will be exempt from permit fees but will be required to obtain a permit.

Applicants must provide detailed information about the location, nature, and extent of the Work to be performed. Multiple excavations are allowed if pre-defined under the original Permit. An anticipated timeframe for the Work must be included on the application form. Permits will be valid for the days approved on the permit.

Modifications to the dates can be made by contacting the Public Works - Engineering Division for approval.

The City will not approve a permit application for Work between November 15<sup>th</sup> and April 15<sup>th</sup> unless it is an emergency repair to infrastructure or utilities, as deemed by the City Engineer. If weather conditions allow, the City Engineer or designee may make an exception and approve a permit during this timeframe; however, the Permit Holder will still be responsible for restoring the Work site to the satisfaction of the City Engineer, even if the weather becomes unsatisfactory while the Work is in progress. The Permit Holder may be required to perform immediate temporary measures to restore the Work site to the satisfaction of the City Engineer, as well as provide ongoing maintenance of such measures until permanent restoration is completed.

#### **Traffic Control and Protection of Work Site:**

Adequate pedestrian and vehicular traffic control, signs and barricades are the Permit Holder's responsibility and shall be provided by the Permit Holder. No street shall be closed without prior notification to the Brookings Police Department. Utility locates must be completed prior to any work. Call South Dakota One Call at 811 to make arrangements. The Applicant must provide an acceptable traffic control plan with the Permit application.

#### **Excavator License:**

Any person or entity performing the Work in a Right-Of-Way must possess an Excavator License with the City of Brookings prior to a permit application being submitted. To obtain an Excavator's License, the Public Works - Engineering Division will require the following:

- A. Excavator License Application
- B. Bonds & Insurance: Bond and Insurance requirements shall be met and are detailed in the application for obtaining an Excavator License. The bond and insurance shall be valid for the term of the Excavator License, expiring December 31<sup>st</sup> of the current year.
- C. Excavator License Fee: The fee for an Excavator License is set forth in the City Council approved Consolidated Fee Schedule and is due at the time of application submittal.
- D. The following are exempt from licensing requirements:

- a. Contractors performing work under direct contract with the City.
- b. City owned utility companies and contractors performing work for City owned utility companies.

**Penalties:**

If non-emergency Work begins without first obtaining a Right-Of-Way Work Permit, in addition to the permit fee, a fine may be charged as follows:

- A. \$250 for the 1<sup>st</sup> offense
- B. \$500 for the 2<sup>nd</sup> offense
- C. \$1,000 for the 3<sup>rd</sup> offense and any subsequent offense

The City Engineer may waive penalties if a sufficient reason is provided.

**Safety Standards and Protection to Public:**

Any person performing Work shall, during the progress and continuance of the Work, keep and maintain about and around the excavation during both day and night, suitable guards, fences, warning lights and signals in the latest version of the Manual on Uniform Traffic Control Devices (MUTCD) to prevent injury to persons, animals or vehicles as a result of such excavations.

**Permit Holder's Responsibility:**

- A. Permit Holder must provide and maintain construction signage to meet MUTCD requirements on any land or sidewalk closures. The use of barriers, warning signs and protective equipment shall be considered.
- B. Access to adjacent properties must be provided at all times unless arrangements have been made with the property owner.
- C. During the winter months, traffic control shall be removed whenever City snow removal operations are anticipated.

**Construction Methods & Materials:**

Work must conform to all applicable standards, specifications, codes, and regulations of the City of Brookings and Brookings Municipal Utilities.

**Warranties and Responsibilities for Continued Maintenance:**

The permit holder is responsible for workmanship, materials, trench settlement, or any other deficiencies caused by their work during the corrective period of three (3) years following excavation.

During the warranty period:

- A. The permit holder shall repair and/or replace all deficiencies during the corrective period at no cost to the City.

- B. The City shall determine whether adequate repair and restoration has been completed.
- C. If the permit holder fails to repair or restore affected Right-Of-Way, in a reasonable and timely manner, the City may complete repairs, and the permit holder shall pay the costs incurred by the City.
- D. If a permit holder fails to comply with the City Engineer Rules and Regulations, the City Engineer may choose to revoke their Excavator License and deny future Right-Of-Way Work Permits.
- E. In the event of a failed restoration that may cause a hazard to pedestrian or vehicular traffic, and the permit holder responsible is not able to repair the site within a reasonable amount of time determined by the City Engineer, the City may complete the repairs and bill the permit holder accordingly.

**Approved:**

City Manager: \_\_\_\_\_

Date: \_\_\_\_\_

**Review and Amendments:**

This policy has been reviewed by:

City Engineer: \_\_\_\_\_ Date: \_\_\_\_\_

Public Works Director: \_\_\_\_\_ Date: \_\_\_\_\_