

**CITY OF MT. PLEASANT
ORDINANCE NO. 2021-01**

AN ORDINANCE CONCERNING USES OF MUNICIPAL ROADS AND RIGHTS-OF-WAY, REGULATING EXCAVATIONS, ENCROACHMENTS, AND STRUCTURES WITHIN RIGHTS-OF-WAY, PROVIDING PENALTIES FOR VIOLATION

WHEREAS, on February 8, 2021, Mount Pleasant City provided notice of its intent to prepare an ordinance regulating municipal rights-of-way; and

WHEREAS, Utah State Code allows for municipalities to enact ordinances protecting the health, safety, and welfare of its citizens and guests; and

WHEREAS, the City Council finds good cause for adopting the provisions set forth herein;

NOW THEREFORE, be it ordained by the City Council of Mt. Pleasant City, Utah, as follows:

Section 1. Permits Required for Excavations, Driveways, Encroachments, and structures.

(a) It shall be unlawful for any person, firm, public utility, or corporation to place, make, enlarge or change any excavation, driveway, encroachment or structure within the right-of-way for any Municipal Road without complying with the provisions of this Ordinance and obtaining a permit as provided for herein.

(b) It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any encroachment or structure in any Municipal right-of-way not described in the approved permit application or which exceeds in size the dimensions or which does not conform to the conditions described in said application.

(c) A permit shall not be required for the replacement of existing structures provided a similar structure is placed in the same location.

(d) Any vehicles and/or trailers in the right-of-way must be licensed and may not be parked in the right-of-way longer than 72 hours.

Section 2. Applications

Applications shall be made by the person, firm, public utility or corporation actually doing the work. Applications for all permits shall be made to the City Public Works Office as provided and shall describe the excavation or encroachment and shall have a drawing of the

location of the intended excavation, encroachment or structure, the pertinent dimensions thereof, the purpose therefor, the person, firm, public utility, or corporation doing the actual work and the name of the person, firm, public utility, or corporation for whom or by which the work is being done and shall contain an agreement that the applicant will comply with all ordinance and laws of Mount Pleasant City and the State of Utah relating to the work to be done. A Traffic Control Plan, conforming to the Manual of Uniform Traffic Control Devices (MUTCD) shall be submitted with all applications which involve excavations within the Municipal Road right-of-way. The application shall also provide for an agreement that the applicant shall indemnify the Municipality for any loss, liability, or damage that may result from or because of the making, placement, existence, or manner of guarding or constructing any such excavation, encroachment or structure.

Section 3. Permits

All permits issued pursuant to this ordinance shall be valid for a period of 60 days. A copy of the permit issued shall be available at all times when work is under way.

Section 4. Fees

A review fee, in the current amount as set by resolution of the Mount Pleasant City Council shall accompany each application for a permit. Fees must accompany the application unless other fee payment arrangements have been approved by Mount Pleasant City.

Section 5. Failure to Comply.

In the event of failure on the part of any person, firm, public utility, or corporation to comply fully with the provisions of this Ordinance, law enforcement authorities of Mount Pleasant City are authorized to:

- (1) Initiate action by citation or information and/or proceed to forfeit bond, or
- (2) Remove such installation from the right-of-way or require such person, firm, or corporation to remove the same; or,
- (3) Give written notice to such person, firm, public utility, or corporation to remove such installation from the right-of-way. Such notice may be served either by personal service or by

mailing the notice to the person, firm, public utility, or corporation by registered mail and posting a copy thereof on such installation for a period for 14 days. If such installation is not removed within 14 days after the notice is complete, said authorities may remove the same at the expense of the person, firm, or corporation and recover costs and expenses, and also the sum of \$25.00 for each day the same remained within the right-of-way after notice was complete, in an action for that purpose; or,

(4) If such person, firm, public utility, or corporation disputes or denies the existence of such installation, or refuses to remove or permit its removal, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the costs of action and the sum of \$25.00 for every day such nuisance remained within the right-of-way after notice was given for its removal in the manner provided in Subsection (2) of this Section. (UCA 27-12-135). Any person who violates the provisions of this Ordinance is guilty of a Class "C" Misdemeanor. Each day a continuing violation shall be deemed a separate offense.

Section 6. Severability

Should any section, paragraph, sentence, clause, or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

Section 7. Effective Date

This Ordinance shall become effective after publication of such in accordance with applicable State Law.

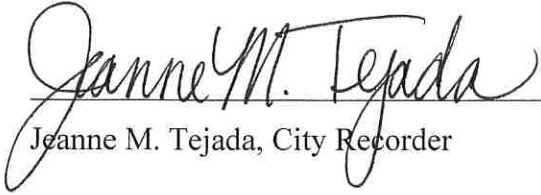
PASSED AND APPROVED this 23rd day of March 2021.

CITY OF MT. PLEASANT

By Mike Olsen

Mike Olsen, Mayor

ATTEST:


Jeanne M. Tejada, City Recorder

Voting:

Justin Atkinson	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Kevin Stallings	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Russell Keisel	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Rondy Black	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Sam Draper	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>

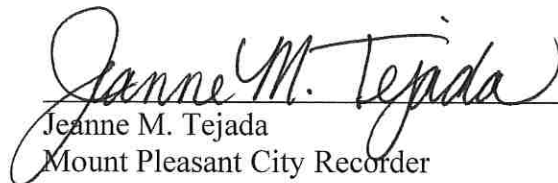
STATE OF UTAH

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COUNTY OF SANPETE

I, JEANNE M. TEJADA, City Recorder of Mount Pleasant City, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the City Council of Mount Pleasant City, Utah, on the 23rd day of March, 2021, entitled **“AN ORDINANCE CONCERNING USES OF MUNICIPAL ROADS AND RIGHTS-OF-WAY, REGULATING EXCAVATIONS, ENCROACHMENTS, AND STRUCTURES WITHIN RIGHTS-OF-WAY, PROVIDING PENALTIES FOR VIOLATION.”**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Mount Pleasant City, Utah this 23rd day of March, 2021.



Jeanne M. Tejada
Mount Pleasant City Recorder

(SEAL)

AFFIDAVIT OF POSTING

STATE OF UTAH

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COUNTY OF SANPETE

I, JEANNE M TEJADA, City Recorder of Mount Pleasant City, Utah, do hereby certify and declare that I posted in three (3) public places the ordinance which is attached hereto on the 23rd day of March, 2021.

The three places are as follows:

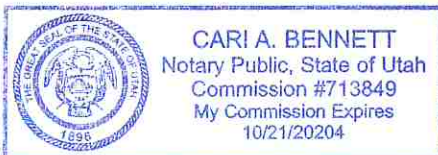
1. Mt. Pleasant City Admin. Building
2. Mt. Pleasant City Library
3. Mt. Pleasant City Aquatic Center

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

Also, notice of the public hearing was published or posted on February 17, 2021 and February 24, 2021 in the local paper, *The Sanpete Messenger*.

Jeanne M. Tejada
Jeanne M. Tejada
Mount Pleasant City Recorder

The foregoing instrument was acknowledged before me the 26 day of MARCH 2021, by Jeanne M. Tejada.



Cari Bennett
Notary Public
My Commission Expires: 10/21/2024