

## THIS PERMIT IS ISSUED SUBJECT TO THE FOLLOWING CONDITIONS:

### Mission Viejo Municipal Code Sec. 14.03.150. - Conditions of permit.

The permit shall be subject to the following conditions, which shall be stated in the permit or incorporated by reference:

- (a) The City's encroachment permit special provisions shall be attached as conditions to the permit (unless otherwise determined by the director).
- (b) The permit must be kept at the site of the work and be shown, on demand, to any authorized representative of the City or any law enforcement officer.
- (c) The permit shall authorize work to be performed only within those rights-of-way over which the City has jurisdiction.
- (d) All work shall be performed in accordance with the provisions of the permit, and of all applicable laws, rules, and regulations of the City and any other public agency having jurisdiction and to the satisfaction of the city engineer.
- (e) The permit is nontransferable.
- (f) The city engineer may cancel the permit if the work authorized therein is not commenced within 120 days of the issuance of the permit and thereafter, in the reasonable opinion of the city engineer, is not diligently prosecuted to completion. Cancellation may be effected by written notice sent by regular mail to the permittee at the address shown on the application.
- (g) Not less than 24 hours before the commencement of any work authorized by the permit, the permittee shall apply to the city engineer for an inspection. In that application, the permittee shall specify the day and hour when, and the location at which, the work will be commenced. This requirement does not apply to emergency work on existing facilities within the public rights-of-way.
- (h) The permittee shall notify the city inspector when all work is completed.
- (i) The permittee shall provide proof of commercial general liability insurance in a form and an amount acceptable to Risk Management staff but not less than one million dollars per occurrence and two million dollars in the aggregate for bodily injury, personal injury, and property damage. The City, its officers, officials, employees, agents and volunteers shall be named as additional insureds on separate additional insured endorsement form(s) covering both ongoing and completed operations. Permittee shall also provide proof of automobile liability insurance in an amount not less than one million dollars per occurrence. Permittee shall provide City with proof of workers' compensation insurance per statutory limits and employer's liability insurance in an amount not less than one million dollars. The Risk Management Administrator may waive one or more of these requirements on a case-by-case basis if it is determined that the work to be performed creates minimal exposure of potential liability for the City.
- (j) In consideration for City issuance of the permit, permittee agrees to defend, indemnify, and hold harmless the City, and its officers, agents, and employees, against any and all penalties, liabilities, or loss resulting from any claim or court action arising out of any accident, loss, or damage to persons or property attributable to or occurring as a proximate result of any work undertaken by the permittee, its authorized agents, officers, representatives, or employees, under the permit. This indemnification will not apply to any claim or court action attributable to or arising out of the negligence or willful misconduct of the City, its officers, agents, or employees. City shall provide to permittee written notice of any claim or court action within ten days after the City learns of that claim or action. City shall assist in any defense that permittee must undertake in response to that claim or court action.
- (k) In the event of any controversy, claim, or dispute arising out of or relating to the permit, or the violation of any covenant contained therein, the prevailing party shall be entitled to receive from the losing party reasonable expenses, attorneys' fees, and costs.
- (l) The city engineer may, either at the time of issuance of the permit or at any time thereafter until completion of the work, prescribe reasonable time, place, and manner conditions as may be deemed necessary for the protection of the public right-of-way or public property, or for the prevention of undue interference with traffic, or to assure the safety of persons using the public rights-of-way.
- (m) All property owners and residents within 300 feet of the construction site who will be affected by the work (i.e., driveway closures, work on private property, sidewalk work in front of an adjoining property) shall be given written notice by the permittee a minimum of 48 hours prior to the start of work. This written notice shall be provided using door hangers, and the permittee shall print on the notice its contact telephone number. Any damage to private property shall be repaired by the permittee.
- (n) No excavations shall be made until after a permittee has called, at least 48 hours in advance, the Underground Service Alert (U.S.A.) of Southern California and has obtained a "digalert" identification number. No work shall be done under an encroachment permit until a Digalert identification number is obtained.
- (o) A permittee must comply with all regulations, including all stormwater best management practices, as specified in section 6.65.100 of the Municipal Code, and as required by the director.
- (p) All trenches and cuts that meet the criteria set forth in the City's encroachment permit special provisions and that are within two feet of gutter lip shall be cold planed to gutter lip.
- (q) Excavations and open cuts are prohibited within streets that have been reconstructed or overlaid with a new surface within the previous five years, or slurry sealed within the previous two years, except during emergencies as determined by the director in accordance with section 14.03.200 of the Municipal Code.
- (r) At the option of the city engineer, a permit for facilities that are actively under construction may be revoked at any time after the City provides permittee with reasonable advance notice of revocation stating a lawful cause for revocation and removal whenever:
  - (1) It appears to the city engineer that the continuance of the permitted work, whether because of changed conditions or otherwise, interferes with safe public use of the right-of-way involved; or
  - (2) The permittee fails to comply with or violates any City ordinance, safety regulations, or any material condition of the permit in a manner that precludes the safe use of the right-of-way by the public.

Upon revocation of the permit, permittee shall be responsible for the removal of the permitted improvement and restoration of the public right-of-way and public property to its pre-existing condition. If the permittee fails to remove the improvement and to restore the public right-of-way or public property within a reasonable period of time and as specified in the City's notice of revocation, the City shall be authorized to remove that improvement and to restore the public right-of-way or public property at the permittee's expense without any further notice to the permittee.

- (s) With regard to any permit application that is subject to the special provisions for large above-grade facilities set forth in section 14.03.220 of the Municipal Code, the requirements applicable to those large above-grade facilities proposed by a permit applicant shall be stated in the permit or incorporated by reference.