

**CITY OF MEMPHIS
CITY ENGINEER'S OFFICE
PROCEDURES FOR
RIGHT OF WAY PERMIT**

APPLICABILITY:

These procedures will apply where any public or private utility, individual, or city or county department to cut or dig into or open any pit or trench, or to grade or excavate any pavement, gutter, sidewalk, lawn strip, neutral strip or any other portion of any city rights-of-way or easement, or for any railroad company having tracks upon, along or across any city rights-of-way or easement to repair such tracks or any of the appurtenances thereto, or for any pole company having pole lines upon the rights-of-way or easement or any company having conduits, mains or pipes under the surface of the rights-of-way or easement, to do any work in connection therewith by which any parts of any surface of a city right-of-way or easement is to be cut or disturbed. The term "Applicant" hereafter shall mean developer, contractor, public or private utility, permit holder, or their engineer.

LIMITS:

This procedure will not be limited to utility cut size or dollar amount of total project costs for public or private improvements.

REQUIREMENTS & PROCEDURES:

1. The Applicant can find the Right Of Way Permit packet on-line at [Memphistn.gov / government / engineering / land-development /](http://Memphistn.gov/government/engineering/land-development/) or from the Land Development Department of the City Engineer's Office located at 125 North Main, Room 644, Memphis, TN 38103. The packet contains "Utility Cut Permit Procedures", Memorandum of Understanding (Appendix A), and Performance Bond (Appendix B).
2. The civil plans for the proposed construction will be presented (along with a \$525.00 review fee) to the Land Development Department of the City Engineer's Office for review. This plan will show the area of work to be performed in the City's Right-Of-Way or Easement(s). All plans to be reviewed will be submitted on Standard City of Memphis title block and stamped by a Professional Engineer registered in the State of Tennessee.
3. During the plans review process, the Land Development Dept will determine if this work can be performed under the Right Of Way Permit or if a Standard Improvement Contract procedure will be required. If a Standard Improvement Contract is required, the Land Development Dept will advise the Applicant of next steps.
4. If the Right Of Way Permit procedure is applicable, the plans will continue to be reviewed until they are ready to be accepted and signed by the City Engineer. Prior to the plans being signed by the City Engineer, the Applicant will submit the required insurance documentation, signed Memorandum of Understanding (Appendix A), Performance Bond (Appendix B), and all required fees to the Land Development Department of the City Engineer's Office. Once these submittals have been received and accepted, the plans will be signed and work can commence.

A. INSURANCE

- 1.) The Applicant shall provide at no cost to the City the following insurance from insurance companies acceptable to the City and licensed in the State of Tennessee, which insurance shall be evidenced by certificates and/or policies as required by the City. Each certificate or policy shall require and state in writing that **“thirty(30) days prior to cancellation or material change in the policies, notice thereof shall be given to the City of Memphis by registered mail, return receipt requested”** for all the following stated insurance policies:
- 2.) **Worker’s Compensation** coverage in accordance with the statutory Requirements and Limits of the State of Tennessee. All State Endorsements are required or a Certificate of State Worker’s Compensation Board showing proof of ability to pay compensation directly.
- 3.) **Comprehensive General Liability Insurance** with minimum of limits of: Bodily Injury (including death) and Property Damage \$1,000,000.00 each occurrence with \$2,000,000.00 Aggregate - Combined Single Limit.
- 4.) Coverage to be included and **specifically noted** on the Certificate of Insurance provided to the City:
 - a. Premises and Operations
 - b. Independent Contractors
 - c. Products and Completed Operations
 - d. XCU Coverage (Explosion, Collapse & Underground)
 - e. Broad Form Property Damage
 - f. Personal Injury
- 5.) **Comprehensive automobile liability** insurance covering **any auto** (owned, hired and non-owned) vehicles with minimum limits of: Bodily Injury and Property Damage \$1,000,000.00 each accident - combined single limit.
- 6.) **THE CITY OF MEMPHIS SHALL BE CONSPICUOUSLY NAMED ON THE CERTIFICATE (S) OF INSURANCE AS ADDITIONAL INSURED.**
- 7.) The **location of the project** shall be specified on the Certificate (s) of Insurance.
- 8.) The **Applicant shall not commence work** in the right-of-way until he has obtained or caused his subcontractor to obtain all insurance required under this Section and such insurance has been approved by the City.
- 9.) **IMPORTANT: The Certificate Holder shall be noted as:**

**CITY OF MEMPHIS ENGINEERING
LAND DEVELOPMENT OFFICE
125 NORTH MAIN, ROOM 644
MEMPHIS, TN 38103**

B. PERFORMANCE BOND (Appendix B)

- 1.) The applicant shall execute a performance bond with good security or submit a substitute form of bond approved by the City of Memphis Engineer's Office. The amount of bond shall be in increments starting at \$5,000.00 as set by the Land Development Dept. based on the public improvements described in the Permit agreement.
- 2.) The following three bonding options are acceptable to the City subject to the following conditions.
 - a. Shall be negotiable through a Shelby County Bank.
 - b. The performance bond form shall be signed by the permit holder and returned with the Memorandum of Understanding.
- 3.) **BONDING OPTIONS:**
 - a. CASHIERS CHECK
 - i. If a cashier's check is posted in lieu of performance bond, the check must be made payable to the City of Memphis.
 - b. CERTIFICATE OF DEPOSIT
 - i. If a certificate of deposit is to be posted in lieu of performance bond, the original certificate must be assigned to and held by the City Engineer's Office and must remain automatically renewable. The amount must equal the original bond amount.
 - c. LETTER OF CREDIT
 - i. If a letter of credit is posted in lieu of performance bond, it must be irrevocable and automatically renewable.
 - ii. Any letter of credit not drawn on a Shelby County Bank is required to be "Advised and Confirmed" or "Advised and Negotiated" by a Shelby County Bank. *(Please obtain appropriate language from the City Engineer's Office if this option is chosen.)*
- 4.) Executed performance bond shall be attached to and made a part of this Permit agreement guaranteeing the faithful performance of work described in the Right Of Way Permit agreement.
- 5.) Performance bonds with fixed terms of expiration shall **not** be acceptable.
- 6.) The performance bond submitted as security shall be retained for a period of one year **following completion of the work** in accordance with the Right Of Way Permit agreement and approved plans.
- 7.) It shall be the responsibility of the permit holder to notify this office upon completion of the work performed under the Right Of Way Permit agreement.

C. MEMORANDUM OF UNDERSTANDING (Appendix A)

- 1.) Prior to the City’s issuance of the Right Of Way Permit, the applicant shall execute a Memorandum of Understanding and submit to the City Engineer’s Office, along with construction plans and fees.
- 2.) Execution of the Memorandum of Understanding shall confirm applicant’s commitment to the terms and conditions of the Utility Cut Permit. Construction work cannot begin until the Memorandum of Understanding is executed and Plans are approved by the City Engineer.

D. FEES

- 1.) **The Applicant shall submit a check payable to the City of Memphis for the Fee amount to be collected for work within the City Right-Of-Way or Public Easements.**
- 2.) **The Applicant will be charged a MINIMUM Utility Cut fee of \$750.00 plus the base area fee of \$25.00 per 10 square feet of utility trench cut for pavements over Five (5) years in age.**
- 3.) **For Utility Cuts made in pavements less than Five (5) years in age, the Applicant will be charged the Minimum fee plus a pavement impact factor determined using the calculations below.**
 - a. **Pavements < 2 years, the pavement impact factor is 3 x base area fee**
 - b. **Pavements 2-3 years, the pavement impact factor is 2.5 x base area fee**
 - c. **Pavements 3-4 years, the pavement impact factor is 2 x base area fee**
 - d. **Pavements 4-5 years, the pavement impact factor is 1.5 x base area fee**
- 4.) In addition to the above pavement cut fees, the following fees will also apply if applicable:

a. Per linear foot of pipe or other cut (off pavement)	\$10.00
b. Connection to existing structure	\$100.00
c. Construction of new structure	\$200.00
d. Sidewalk improvements (per square foot)	\$ 0.48
e. Curb Cut (per square foot)	\$ 0.48
f. Curb, Gutter, and Sidewalk	\$ 0.83
g. Temporary lane closure	\$ 50.00 + \$10.00/lane/day
h. Temporary road/alley closure	\$ 50.00 + \$50.00/day
6. Once the Certificate of Insurance, Memorandum of Understanding, Bond and fees are received and the Construction Plans and Traffic Control Plan have met the Engineering Department’s criteria, the Plans will be signed by the City Engineer. The approved Right Of Permit number will be placed on each sheet of the approved drawings.
7. Upon approval by the City Engineer, the signed plans will be electronically forwarded to the Applicant’s engineer and the City’s Construction Inspection Office. The Applicant’s contractor shall contact the City Construction Inspection Office at (901) 636-2462 prior to proceeding with the permitted work.

8. The bond submitted as security for the permitted work shall be retained by the City Engineer and will be released upon successful completion of said work and the approval of as-builts, if required.
9. Upon completion of the required work, the permit holder's engineer shall submit a statement verifying that the improvements were constructed in accordance with the approved construction plans and that there are no significant changes in the vertical and horizontal alignment of any improvements.
10. The permit holder's engineer shall provide and certify clearly identifiable "as-built" information on the original mylar of the construction plans by reflecting the exact flow line elevation of all pipes at all manholes and structures. The revision block on each mylar shall be noted as "Revised to reflect as-built conditions."
11. Any public infrastructure installed without approved plans or which were not inspected are subject to removal and replacement if required by the City. All costs of certification as required by the City are to be borne by the Applicant.
12. The City, in its governmental functions, is not and could not be expected to oversee, supervise, and/or direct the construction of all improvements, and the excavation incident thereto.
13. The City Engineer is neither vested with the original design responsibility nor the means to formally survey elevations or the locations of improvements at every stage of the construction process.
14. The Applicant now has and shall retain the responsibility to properly anticipate, survey, design and construct the improvements of the Project and give full assurance that same shall not adversely affect any other property.
15. In providing technical assistance, plans and design review, the City does not and shall not relieve or accept any liability from the Applicant.