

37 (5) Roadway safety and detour plan to be submitted. Roadway to be cut shall have
38 sufficient signage indicating roadwork to caution motorists, not only during the project but also
39 during the time frame between the backfill and pavement restoration process.

40 Suggested cautionary indicators:

41 Cones, barrels, barricades, hi-vis vests on crew, flagging crew, and signage.

42 (B) The applicant shall be required to provide proof of adequate insurance in an amount
43 satisfactory to the municipality indicating that the applicant has sufficient insurance to protect
44 both the municipality and the applicant for any and all claims or damages arising out of bodily
45 injury, including death, to any party including the applicant and their employees and agents and
46 the municipality's employees and agents, and from claims for damaged property which may arise
47 out of, or result from, the applicant's use of the municipal right-of-way. The applicant must agree
48 to defend, hold harmless, and indemnify the municipality and its officers, agents and employees,
49 against all claims, losses and damages to persons or property on account of or resulting from the
50 intentional or negligent conduct on the part of the permittee in the permittee's use of the
51 municipal right-or-way.

52 (C) Upon receipt of the application, the municipality shall review the request. The Designated
53 City Staff will verify information provided in the application and will process the application.
54 Further review will be made to determine if the application is consistent with the terms and
55 conditions of this subchapter including the standards and requirements referred to in this
56 subchapter and any amendments, ordinances or resolutions that may be promulgated by the
57 municipality in the future.

58 (D) Requests for standard new user hookups will be processed by the Designated City Staff
59 within 3 working days. Other requests, in most cases, will be processed within 10 working days
60 after receipt of the completed application. The Designated City Staff will notify the applicant by
61 regular mail, telephone, or by email of acceptance or denial of the application. Where approved,
62 the notification will include notification of the right-of-way usage fee. The permit will be valid
63 only upon payment of the applicable fee.

64 (E) An applicant may appeal the denial of a permit to the City Council. All the appeals shall
65 be made in writing to the City Clerk or their designee no later than 15-calendar days after receipt
66 of notice to the applicant of an adverse decision. Appeals shall be heard at a public meeting of
67 the City Council at the next legally permissible meeting. A decision adverse to the applicant may
68 be taken by the applicant to the state district court. All appeals shall follow the 155.007 Appeals
69 Process under General Provisions of the code.

70

71 **§ 150.57 STANDARDS AND REQUIREMENTS.**

72 (A) Restoration. The permittee must restore the street sub-base, base and surface to its
73 original condition upon completion of the work within the right-of-way as shown in appendices
74 A through C.

75 (B) Backfill. Unless specifically exempted in writing, any person who trenches or excavates
76 within the right-of-way for any purpose is required to backfill the trench or excavation as
77 follows:

78 (1) Excavations will be saw or straight cut

79 (2) All trenches and ditches will be backfilled and compacted to meet current in place grade
80 levels of roadway.

81 (3) In all trenches and excavations, the material used in backfilling must consist of the
82 original, excavated material or other similar materials, in a finely divided form free from large
83 lumps, large stones, rocks, pieces of old concrete, or asphalt pavement or large or wet gummy
84 masses and must be placed and compacted to the top of the trench or excavation.

85 (4) The excavation shall be restored to existing conditions of adjacent road surface. If any
86 significant deterioration of the patch occurs within a one (1) year period following the date of
87 city accepted restoration, e.g. depression, cracking, elevation, the utility will replace the patch at
88 its expense. If the utility fails to do this within 30 days after notification from the city, the city
89 will replace the patch and bill the utility.

90 (C) Replacement. Replacement of pavement, when necessary, shall follow the backfill by not
91 more than thirty (30) days for a single roadway cut. For a multi roadway cut for a phased
92 development project, multiple connections, backfill dirt patches permitted for up to three (3)
93 months, upon completion on the final cut replacement of pavement to follow by no more than
94 thirty (30) days.

95 **§ 150.58 EMERGENCY USE OF RIGHT-OF-WAY.**

96 In the event of any emergency which threatens the health, safety or welfare of the public, use
97 of the municipal right-of-way may be commenced without first obtaining the permit, provided
98 that the utility making the emergency use files the application for a permit, as required by this
99 subchapter, during the first working day immediately following the date of commencement of
100 the emergency use. If the emergency repair is during standard working hours, it is requested to
101 notify the Designated City Staff by phone. If the emergency repair is outside of normal working
102 hours it is requested to notify the Designated City Staff by email as well as contacting Central
103 Dispatch.

104 *Section Two.* All other provisions of the Utility Right-of-Way Management Ordinances
105 not specifically amended in section one herein, shall remain unchanged and in full force and
106 effect as written.

107
108 *Section Three.* Effective date. This ordinance shall become effective five days
109 following publication of adoption.

110

111 PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Elephant Butte,
112 New Mexico, this ____ day of _____ 2025.

113 _____
114 Phillip Mortensen, Mayor

115
116
117 Attest:

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121 _____
122 Lindsey Cobleigh, City Clerk

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DRAFT