



TOWN OF MARANA
11555 W. CIVIC CENTER DRIVE
MARANA, ARIZONA 85653
PHONE: (520)382-1999
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GENERAL INFORMATION

RE: RIGHT-OF-WAY PERMITS

To Whom It May Concern:

Town Code 12-7-4 reads: All construction performed in Town rights-of-way, as well as all other uses listed under section 12-7-3A will require a Right-Of-Way Permit. Attached please find a copy of the permit application along with a copy of Town Code Chapter 12-7 for your use.

At this time permits are being processed Monday through Friday, from 8:00 a.m. to 5:00 p.m. **Processing time is two weeks or ten (10) working days, which ever is greater.**

Please be advised that if your work plan or traffic control plan is not clear, too small, or lacks sufficient detail your application will not be processed.

All Right of Way Permits issued by the Town of Marana require, **at a minimum**, the following prior to issuance:

1. All Contractors **MUST** provide proof of Insurance. Certificate of General Liability in the amount of \$1,000,000 per occurrence and a \$2,000,000 aggregate. Certificate of Insurance must list the **Town of Marana as additional insured** and holding the Town harmless and/or free of liability arising out of proposed work.
2. The Town of Marana may require additional assurances in a form satisfactory to the Town.
3. Contractors shall provide evidence (example: State Contractor's License) that he/she is competent and equipped to do the proposed work.
4. Applicant and/or their Contractor and all Subcontractors must provide evidence (example: Town of Marana Business License) that he is legally allowed to perform work within the Town of Marana.
5. Completed TOWN OF MARANA RIGHT-OF-WAY USE Application.
6. Completed TOWN OF MARANA Agreement for excavation, (if applicable).
7. Itemized Construction Costs Estimate.

8. Plan of the work to be done **MUST** include: north arrow, nearest street, nearest cross street, trench detail, dimensions of trench, pit, or boring; if work is performed in the shoulder you must include distance to pavement.
9. Traffic control plan in accordance to the most updated version of the Manual on Uniform Traffic Control Devices. In addition, your traffic control plan should include all of the information of the plan of work. (If work is in the shoulder please provide a plan showing the use of "shoulder work ahead" signs.)
10. Approved permits required by other jurisdictions must be provided to the Town of Marana prior to work. This **SHALL** include a Pima County Department of Environmental Quality Activity Permit in accordance with Pima County Title 17.
11. The Town of Marana requires complete Soils Testing Reports. Test results must indicate that the backfill and compaction complies with adopted Town Standards of **ninety-five percent (95%) or greater (100% + for areas within the roadway)**.
12. For trenches four (4) feet or less in width, backfill material shall be Controlled Low Strength Material (CLSM) per Standard Specification 501-2.04.
13. Any vegetation removal shall be re-vegetated with approved plant-list species appropriate to site and surrounding native habitat. Appropriate, in this sense, means that re-vegetation will be done, to the extent practicable, with the same species and density present on undisturbed or nearby sites. A Native Plant Permit may be required by the Town of Marana Planning Department.
14. An Archeological Study may be requested by the Town of Marana.
15. An Environmental Study and clearance by the U.S. Fish and Wildlife shall be required when activities take place within Critical Habitat.
16. **Contractors performing commercial work MUST** provide a performance bond in the amount of 115% of the Construction Cost. Organizations with an Advance Payment Account (APA) may authorize retention of the Bond from their active account.

In addition, please note that work hours may be restricted on heavy traffic volume areas and roadways may not be closed unless approved by Town of Marana Traffic Engineering Division. Should you have any questions concerning this communication or items relating to specific permitting details, call (520) 382-2682.

Thank you for your cooperation,

Carla Donaldson
Town of Marana
520-400-8233
Right-of Way-Inspector

Town Code

CHAPTER 12-7. CONSTRUCTION IN TOWN RIGHTS-OF-WAY

12-7-1 Definitions

A. The following definitions shall apply throughout this chapter unless the context clearly indicates otherwise.

1. "Applicant" means the owner of the firm, utility company or corporation whose facilities or equipment are the subjects of the right-of-way permit application.
2. "Contractor" means the party doing the work.
3. "Emergency" means any condition which poses an immediate or imminent hazard to people or property.
4. "Public improvement" includes, but is not limited to, grading, paving, and landscaping, as well as the construction of curbs, gutters, drainage facilities, sidewalks, paths, trails, irrigation, walls, driveways and berms.
5. "Right-of-way" means alleys, streets, thoroughfares, drainage-ways and drainage easements dedicated to the town or to the public and other easements dedicated to the public.
6. "Town engineer" means the town engineer or the town engineer's authorized representative.

12-7-2 Authority of town engineer

The town engineer is appointed the duly authorized representative of the town, with full power and authority to authorize on behalf of the town and to supervise the use of the public rights-of-way of the town.

12-7-3 Permit required; exception

A. Any person, contractor, firm, utility company or corporation desiring to dig any hole, drain, trench or ditch in any public right-of-way or desiring to construct, remove or change any public improvement in any public right-of-way, or desiring to cut, trench, pothole or excavate any public right-of-way, or desiring to use any public right-of-way for traffic control, construction haul routes, landscape maintenance, maintenance of underground facilities or temporary parking shall first apply for and obtain a permit from the town engineer.

B. A permit is not required for work done for municipal purposes, using town personnel and equipment.

12-7-4 Applicability

This chapter applies to all construction performed in town rights-of-way, as well as all other uses listed under section 12-7-3A, including, but not limited to, the following:

- A. Routine service connections and maintenance work.
- B. Installation of utility distribution or collection systems and communications systems.
- C. Work done by other governmental agencies and by public utilities.
- D. Work done for private development projects.
- E. Private homeowner encroachment in the right-of-way.

12-7-5 Permit process

A. Application forms for permits required by this chapter shall be obtained from the town. Completed applications, accompanied by payment of all applicable permit fees, shall be submitted either by mail or in person to the town engineer.

B. Before issuance of any permit, each applicant will be required to do all of the following:

1. Provide evidence of the applicant's right to use the public right-of-way, typically by obtaining a town right-of-way license or franchise.
2. Furnish insurance in a form satisfactory to the town, indemnifying, defending and holding harmless the town, its officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature, arising out of the work under the permit, which are attributed to any act or omission of the applicant, its agents, employees or anyone acting under its direction, control or on its behalf.
3. Provide evidence that the contractor possesses an appropriate contractor's license issued by the Arizona registrar of contractors.
4. Submit a signed and approved contract showing the cost of the work, or submit a verifiable professional construction cost estimate.
5. Submit plans of the subject location and adjacent properties that
 - a. Show existing surface conditions, including pavement, curbs, driveways, sidewalks, and landscaping; and
 - b. Show existing underground installations, if applicable; and
 - c. Diagram the work to be performed.
6. Post bonds or other cash forms of assurance with the town in an amount equal to the cost of construction for all required improvements plus 15% to ensure completion of the proposed work. Third party trust forms of assurance are not acceptable for work in the public right-of-way.
7. Obtain a business license from the town as required by chapter 9-1 of this code.

C. Projects which are to be self-certified under section 12-7-10C require a completed agreement for construction of public improvements before a permit will be issued. Necessary forms are available from the town engineer.

D. Completed applications will be reviewed by the town engineer. The town engineer shall issue the permit when all of the following have occurred:

1. The town engineer finds that the proposed construction does not interfere with the safety of the traveling public or the authorized public use of the right-of-way and does not otherwise interfere with the general health, safety and welfare of the citizens of the town.
2. The town engineer finds that the proposed construction does not interfere with and is not inconsistent with a current or future community improvement project (CIP).
3. The town engineer has approved the application, including all plans and specifications for the proposed construction.
4. All applicable permit fees have been paid by the applicant.
5. The applicant has obtained an air quality permit, if required.
6. The applicant has submitted a traffic control plan that is approved by the town engineer.

12-7-6 Emergency work

When, in an emergency, it is impractical to obtain a permit before work is begun, the applicant shall make a diligent effort to telephone the town engineer prior to commencement of work. Emergency work shall be halted upon issuance of a stop work order by the town engineer. A permit shall be applied for, under the same procedures set forth in section 12-7-5, within two business days of commencing emergency work.

12-7-7 No warranty of title

By this section, applicants are placed on notice that the town may not own the particular property or property rights for which the permit is issued. Applicants assume all liability resulting from any defect to the title of the land and no warranty of title to the underlying land is expressed or implied.

12-7-8 Construction requirements

A. The applicant shall notify the town engineer of the proposed start date of the work and shall schedule and complete a pre-construction meeting with the town's right-of-way inspector at least two full work days before starting work.

B. Unless otherwise expressly approved in writing by the town engineer, all work shall conform to the following:

1. The latest edition of the Pima association of governments (PAG) standard specifications and details for public improvements.
2. Other specifications, details or regulations approved by the town engineer or adopted by the town, including all conditions listed in the permit.
3. All requirements of this chapter.

C. The applicant shall be responsible for verifying the location of all underground utilities in accordance with the "blue stake" provisions of state law, A.R.S. § 40-360.21 *et seq.*, prior to the commencement of any excavation and shall protect any utilities from damage. All town property shall be returned substantially to its original condition. The applicant shall be held responsible for any damage to, and for maintenance and protection of, existing utilities and structures.

D. Unless otherwise stipulated to in the permit, all pavement resurfacing after excavation shall be completed by the applicant. During construction, the site must be secured in a manner acceptable to the town whenever work is discontinued and construction staff is not on site. Permanent pavement repairs shall be completed within 30 working days after backfilling the trench.

E. If the applicant fails to secure the site, or if the permanent pavement repair is not performed within 30 working days after backfilling the trench and an extension has not been granted by the town engineer, the town engineer may select a contractor to perform all necessary work at the applicant's expense.

F. The applicant shall be responsible for restoration of all permanent traffic-control devices including, but not limited to, all pavement markings, signs and signals. The restoration of traffic-control devices may be accomplished by the applicant or, at the request of the applicant, by the town. In either case, the restoration shall be completed at the applicant's expense. All traffic control devices shall be approved by the town engineer prior to installation.

G. The applicant shall not allow any condition to exist during the project which would be a hazard or source of danger to the traveling public. If the work presents or becomes a hazard or source of danger to the traveling public, the town may take immediate corrective action and bill the applicant for the full cost incurred for the corrective action.

H. Completed excavation, backfill, and pavement repair shall be guaranteed free of defect by the applicant for a period of two years after closeout of permit or approval by the council, whichever occurs later.

I. The town engineer shall be notified by the applicant before backfilling and upon completion of the work. If the applicant is not working under self-certification as provided in 12-7-10C and

D, the applicant shall not proceed with pavement replacement until the backfill has been approved.

J. If the applicant does not repair the road and right-of-way to the specifications of the town engineer, the town shall notify the applicant of any deficiencies and the applicant shall have 20 working days to repair the deficiencies to the specifications of the town engineer. By acceptance of a permit, the applicant agrees to be responsible for all costs of the repair, if any. If a lawsuit is filed, the applicant, by acceptance of a permit, agrees to be responsible for all costs of collection including, but not limited to, court costs and attorneys' fees.

K. The applicant shall adequately barricade its work in accordance with the latest edition of the federal highway safety administration's manual on uniform traffic control devices and shall install sufficient warning lights and signs to protect the public. Not more than one direction of travel may be blocked at any one time, unless specifically allowed due to extenuating circumstances. The applicant shall submit a traffic control plan to the town engineer and obtain approval before closing or barricading any street or public right-of-way. All traffic control devices shall be delivered and in place in conformance with the approved traffic control plan

prior to the contractor being allowed to begin the work, or to begin a new element of work requiring changes to the existing traffic control configuration.

L. If the applicant performs work not authorized by the permit or under the provisions for emergency repairs, the town shall notify the applicant of the unauthorized work. The notification from the town will indicate whether the town requires removal of the work. If the town requires removal of the work, the applicant shall be responsible for the removal within 15 working days of the notification. If the applicant does not remove the unauthorized work, the town may have the work removed by a competent contractor at the applicant's expense.

M. Where work is performed in a drainage way, drainage easement or designated floodplain area, the applicant shall not at any time obstruct or diminish in any manner the ability of the drainage way, drainage easement or designated floodplain area to convey or pass storm water. Prior to any work within a drainage way, drainage easement or designated floodplain area, the applicant shall obtain written authorizations from the town engineer and a floodplain use permit as required by title 21 of the land development code.

12-7-9 Newly constructed asphalt pavements

In addition to the requirements set forth in section 12-7-8, on asphalt pavements having an overall condition index (OCI) of over 70, as verified by the town engineer, the following additional regulations apply:

A. If sufficient right-of-way is available, directional bore shall be used in lieu of open trench. This shall include the removal and replacement of sidewalk to achieve working room for bore pits.

B. No open pavement cuts shall occur without the permission of the town engineer, except in an emergency.

C. The applicant shall submit a letter to the town engineer assuring that all other methods of construction have been reviewed and are impractical.

D. The applicant shall guarantee the cut until the pavement is five years old or for two years, whichever period is longer.

E. Pavement repairs shall be a minimum of 50 feet asphalt replacement with a 15 degree skew, centered on the trench, unless the repair can-not be accomplished by this method and the town engineer approves an alternate method.

12-7-10 Inspection of work

A. All work is subject to inspection and ultimate approval by the town engineer. Total inspection may be provided by the town as set forth in this section, or the applicant may follow the self-certification processes outlined in this section.

B. Town inspection shall include, but is not limited to, the following procedures and requirements:

1. The town engineer will set up a schedule of notifications from the applicant at various stages of the work for inspection and approval.
2. The applicant shall be responsible for staking line and grade, subject to review by the town engineer.
3. Any required testing and/or inspection designated by the permit or required by the town engineer shall be at the expense of the applicant.
4. If applicable, the applicant shall be required to furnish evidence, acceptable to the town engineer, that the required compaction density has been obtained. This evidence shall be in the form of tests and certification from a certified testing laboratory or from any engineering technician certified by either the national institute for certification in engineering technologies at level II or higher or by the Arizona technical training institute field technician level or from any registered professional civil or geological engineer. The location of the test shall be clearly shown on the report from the applicant. The test report shall be submitted within 30 working days after tests are taken.
5. At the conclusion of the work, the town engineer shall conduct a final inspection and receive test reports, if any. When the project is satisfactorily completed and approved, the applicant will be notified.

C. The self-certification process for inspection shall include the following procedures and requirements:

1. The applicant shall choose an engineer of record, acceptable to the town engineer, to be responsible for the major inspection of the project.
2. An agreement for construction of public improvements shall be signed by the applicant, the engineer of record, and the town engineer. This contract shall detail the responsibilities of the engineer of record for the work.
3. The town engineer shall maintain oversight of the project, shall perform final inspections, and shall approve the project when all requirements have been satisfactorily completed.

D. The self-certification process for inspection for utilities shall include the following procedures and requirements:

1. The applicant shall file a letter with the town engineer indicating that the utility is authorized by the Arizona corporation commission to work within the public rights-of-way, is a permanent presence in the community, and will react promptly to a request from the town engineer to correct any deficiencies resulting from work done under a permit.
2. The applicant shall insure that, at all times when work is under-way at the site, a responsible person shall be present who, by reason of experience and knowledge, is qualified to judge the quality of the work being performed.
3. The applicant shall provide records of test results performed by a laboratory approved by the town engineer or by a technician certified by the national institute for

certification in engineering technologies or the Arizona technical training institute to show that standards of materials, density, and pavement replacement have been met.

E. If the work performed under the permit or in an emergency fails to pass final inspection, the applicant shall remove or replace the work within such time as specified by written notice from the town engineer. If any material used by the applicant in replacing or reconstructing any part of the work, or if any workmanship performed under the permit, proves defective, the applicant shall replace the work as specified by the town engineer.

12-7-11 Permit expiration

A. A permit shall expire if work is not started within 30 days of issuance or if not satisfactorily completed within ten days after the stated completion date. If a permit has expired, a new permit must be applied for, paid for and issued before beginning or completing construction.

B. Permits shall be issued for a period of no more than one year. A one-time extension of no more than six months may be obtained upon application and showing of cause for the delay.

12-7-12 Fees; late fees

A. Right-of-way permit fees shall be set forth by a fee schedule approved by the council and amended from time to time. A copy of the fee schedule is on file in the town engineer's office.

B. Permits obtained after work has started, other than work performed under section 12-7-6, shall cost double the normal permit fee and shall be subject to a late fee as established in the fee schedule.

C. Permits obtained under section 12-7-6 are also subject to double permit fees and the late fee as established in the fee schedule if the permit application is not filed within two business days of commencing emergency work.

D. Paying a double permit fee and/or a late fee does not waive any other applicable penalties or violation fees for violation of this chapter.

12-7-13 Classification; penalties

A. A violation of this chapter is a civil infraction.

B. Violations shall be enforced pursuant to chapter 5-7 of this code, except that upon issuing a finding in favor of the town, the magistrate shall impose a civil sanction of not less than \$1,500.

C. Any person violating the provisions of this chapter shall be responsible for a separate offense for each and every day or portion of a day during which any violation of this chapter is committed or permitted.

D. In addition to any other penalties allowed by law, the magistrate shall order abatement as necessary.

12-9-1 Other violations

A. It is a civil traffic violation for any person to do any act forbidden or fail to perform any act required by this title, unless otherwise designated in this title or under state law.

B. A civil sanction of not more than \$250 shall be imposed on any person found in violation of any other provision of this title unless otherwise designated in this title or under state law.

Chapter 12-8 (formerly "Solicitation of employment, business or contributions from occupants of vehicles traveling on town streets or highways") was repealed by Ordinance 2016.005. For prior history, see Ordinance Ordinance 2008.04 and 2008.11 renumbered this chapter, and Ordinance 2006.31 added "other" to the chapter title Ordinance 2008.04 and 2008.11 renumbered section 12-8-1, which was renumbered and modified by Ordinance 2006.31