

ORDINANCE NO. 16-1329

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, PROVIDING AUTHORITY TO THE DIRECTOR OF ENGINEERING TO MANAGE THE CLOSURE OR BLOCKAGE OF PUBLIC RIGHTS-OF-WAY, IMPOSING REQUIREMENTS FOR THE CLOSURE OR BLOCKAGE OF PUBLIC RIGHTS-OF-WAY; PROVIDING FOR PENALTIES; REPEALING ORDINANCE NO. 2000-698; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the temporary closures of all or part of public rights-of-way are needed for a variety of reasons such as including temporary conditions that make the right-of-way unsafe for travel; control of accident sites; construction within or adjacent to public rights-of-way; and to accommodate special events all of which are for the health safety and welfare of the public; and

WHEREAS, the closure of public rights-of-way in whole or in part is disruptive to the traveling public; and

WHEREAS, the city adopted Ordinance No. 2000-698 to manage the temporary closures of public rights-of-way; and

WHEREAS, Ordinance No. 2000-698 is being repealed and replaced to address changes in the city's operations and requirements for managing the temporary closures of public rights-of-way;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. REPEAL

Ordinance No. 2000-698 providing for the management of public rights-of-way enacted October 9, 2000 is repealed.

SECTION 2. AUTHORITY

The Director of Engineering or his/her designee (the "Director") shall have authority to establish regulations for the closure or blockage of all or part of a public right-of-way in addition to those set forth in this Ordinance 16-1329 and the authority to issue traffic control permits allowing for the closure or blockage of all or part of a public right-of-way, including terms for such closure or blockage, deny traffic control permits, and to revoke traffic control permits.

SECTION 3. PUBLIC RIGHT OF WAY CLOSURES

The closure or blockage of all or part of any public right-of-way shall comply with the following:

3.1 No public rights-of-way shall be blocked or closed, in whole or in part, without a traffic control permit issued by the Director except as set forth herein.

3.2 Public rights-of-way within the boundaries of the city of Goodyear may be blocked or closed, in whole or in part, without a traffic control permit under the following circumstances:

3.2.1 To address immediate public safety emergencies such as accident control, temporary flooding of road ways, or damaged roadways;

3.2.2 When the closure or blockage is necessary to make emergency repairs to utility improvements within or adjacent to the public rights-of-way and a traffic control permit cannot be obtained prior to the commencement of such repairs because city offices are closed. If the repair work will continue after city offices are opened, a traffic control permit shall be obtained for the continued closure or blockage once the offices are opened; or

3.2.3 During routine maintenance of city utility or of public rights-of-way by the city or its contractors.

3.3 All blockages and closures of all or part of a public right-of-way shall comply with the requirements of: this Ordinance, and, except as follows, the Manual on Uniform Traffic Control Devices (MUTCD) as supplemented by the City of Phoenix Traffic Barricade Manual, as amended.

3.3.1 Blockages or closures of public rights-of-way by traffic control permittees who obtain a permit to block or close all or part of a public right-of-way for a "Block Party", as defined in City Code Chapter 26. In such cases, the permittee shall comply with the requirements of the traffic control plan provided them by the Director.

3.3.2 Blockages or closures of all or part of a public right-of-way by public safety personnel who block or close all or part of a public right-of-way to address immediate public safety emergencies.

3.4 Closures or blockages on arterial roadways shall be restricted to the hours between 8:30 a.m. and 4:00 p.m. when reasonably possible.

3.5 Sight visibility triangles in work zones shall be maintained at all times. If a sight visibility triangle cannot be maintained due to the nature of the work, a certified flagger(s) is required to safely direct traffic through the work zone.

3.6 The traffic control permittee shall be responsible for the installation, maintenance and removal of all signs and barricades. When not in

use, all traffic control devices shall be secured and stored safely in a professional manner, so that pedestrian, bicycle, or vehicular travel is not impeded or obstructed. Unless the approved traffic control plan allows for traffic control devices to remain in place after the work necessitating the closure or blockage ends for the day, the city of Goodyear shall have the right to remove, or to have traffic control devices removed from the public right-of-way at the traffic control permittee's expense.

3.7 An off-duty uniformed Goodyear police officer shall be present at the work site creating the need for the closure or blockage of all or part of a public-right-of-way under each of the following circumstances. If an off-duty uniformed Goodyear police officer is not available, an off-duty uniformed police officer from another jurisdiction may be used.

3.7.1 During the hours of 6:00 a.m. to 7:00 p.m. when the work necessitating the closure or blockage is within 300 feet of a signalized intersection and a traffic lane is restricted;

3.7.2 During the times the work causes a traffic signal outage;

3.7.3 When any collector/arterial intersection or arterial/arterial intersection is being controlled by flagging operations;

3.7.4 At all times when maintaining a through traffic lane cannot be avoided; or

3.7.5 When requested by the Director based on the Director's determination that the presence of an off-duty uniformed police officer is required for the protection of the public's health, safety and welfare.

3.8 Except for traffic control permits issued for Block Parties, the permittee to whom a traffic control permit is issued and any entity (contractor and/or subcontractor) performing any work authorized by the traffic control permit shall procure and maintain insurance against claims for injury to persons or property which may arise from or in connection with the performance of such work as follows:

3.8.1 The following insurance coverages issued by insurers with a current A.M. Best Company, Inc. rating of not less than A- and a category rating of not less than "8" shall be provided with the minimum limits of coverage as required by the Risk Manager of the city of Goodyear, which limits shall be included in the application for traffic control permits.

General Liability Insurance with Products and Completed Operations

Vehicle Liability Insurance

Workers compensation insurance – as required by Arizona law

3.8.2 All required insurance coverage shall be provided on a “per occurrence” form unless such coverage is only available on a “claims made” form and the Risk Manager for the city of Goodyear authorizes the use of a “claims made” form pursuant to terms and conditions, including by way of example, but no limitation, the requirement of an extended reporting period.

3.8.3 All required insurance coverage shall be primary and any insurance maintained by the city, its officers, elected and appointed officials, employees, agents, representatives and volunteers shall be excess and non-contributory.

3.8.4 Except for workers compensation insurance, the city, its officers, elected and appointed officials, employees, representative, volunteers and agents shall be included as additional insured by endorsement and evidence of such coverage in the form of Certificates of Insurance and/or formal endorsement satisfactory to the Risk Manager of the city of Goodyear and shall be provided to the Director with the application for a traffic control permit. Certificates of Insurance shall provide for not less than thirty (30) days advance notice of cancellation, termination or reduction in coverage, except in the event of a termination of non-payment of premium, in which case, a minimum of ten (10) days notice of cancellation shall be provided.

3.9 All blockages or closures of all or part of a public right-of-way shall comply with the requirements set forth in this Ordinance 16-1329 and with all regulations adopted by the Director for the management of blockages and with all of the terms of a traffic control permit issued by the Director.

3.10 Traffic Control Permits. Applications for traffic control permits shall be on a form prepared by the Director and shall include all supporting documentation requested in the application, and shall include, at a minimum, the following:

3.10.1 Except for traffic control permits requested for the closure or blockage of a public right-of-way for Block Party, applications for a traffic control permit shall include a traffic control plan that has been prepared by persons certified as a Traffic Control Supervisor by the American Traffic Safety Services Association (ATSSA) or by persons certified in the design of temporary traffic control devices by another entity whose certification is equivalent to that offered by ATSSA and is acceptable to the Director.

3.10.2 Unless waived, all applicable fees as adopted by the City Council of the city of Goodyear.

3.11 Fee Waivers. Traffic control permit fees shall be waived for the closure or blockage of all or part of the public right-of-way for the following:

3.11.1 City departments and their contractors performing construction, maintenance or repair work;

3.11.2 Firms or agencies required by the city to relocate a utility;

3.11.3 Public agency facility improvement projects funded by federal, state, or local governments;

3.11.4 When the permit is obtained for a Block Party;

3.11.5 When traffic control is necessary to delineate new construction and does not affect any existing pedestrian, bicycle, or vehicular travel lane; and

3.12 The Engineering Director or designee, has the authority to stop or suspend work within the right-of-way and to open up a blocked or closed right-of-way for failure to comply with established federal, state and/or local laws, rules, regulations, and/or policies; the failure to comply with any term or condition of a traffic control permit; or when the Director determines the closure or blockage is unsafe to the public. In such cases, the blockage or closure of a public right-of-way shall not resume until a new traffic control permit has been obtained, which requires the submission of a new application for a new traffic control permit and payment of all applicable fees.

SECTION 4. PENALTIES

Any person convicted of a violation of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$2,500 for an individual and not more than \$20,000 for an enterprise or by imprisonment for a period not to exceed six months, or both by such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described herein. The term enterprise as used herein shall mean any corporation, partnership, association, labor union or other entity or any group of persons associated in part although not a legal entity.

SECTION 5. SAVINGS CLAUSE

Ordinance No. 2000-698, which is repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance. The repeal does not affect a punishment or penalty that occurred before the repeal took effect, nor a suit, prosecution or proceeding for an offense committed under the repealed code section or ordinance before the repeal took effect.

SECTION 6. EFFECTIVE DATE

This ordinance shall become effective at the time and in the manner prescribed by law.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20_____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Maureen Scott, City Clerk

Roric Massey, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Maureen Scott, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Ordinance No. 16-1329 is a true, correct and accurate copy of Ordinance No. 16-1329, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said ordinance.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk