ORDINANCE NO. 26-0019

AN ORDINANCE OF THE CITY OF TRINITY, TEXAS, REGULATING THE HOURS OF EXCAVATION, TRENCHING, BORING, AND RELATED DIGGING ACTIVITIES WITHIN CITY RIGHTS-OF-WAY; ESTABLISHING REGULAR HOURS FOR EXCAVATION ACTIVITIES; PROVIDING FOR WRITTEN AUTHORIZATION FOR EXCAVATION OPERATIONS OUTSIDE REGULAR HOURS; PROVIDING FOR EMERGENCY EXCAVATION WORK; ESTABLISHING REQUIREMENTS INTENDED TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE; PROVIDING FOR THE PROTECTION OF CITY WATER, WASTEWATER, STREET, AND OTHER PUBLIC INFRASTRUCTURE; PROVIDING FOR TRAFFIC AND PEDESTRIAN SAFETY; PROVIDING FOR NOTICE AND COORDINATION WITH THE CITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City of Trinity, Texas, is a general-law municipality and owns, controls, maintains, or otherwise has an interest in public rights-of-way located within the City; and

WHEREAS, the City has the authority to adopt reasonable police regulations for the good government, peace, order, health, safety, and welfare of the municipality, provided such regulations are consistent with the laws of the State of Texas; and

WHEREAS, Texas Local Government Code Chapter 283 recognizes municipal authority to manage activities within public rights-of-way subject to the limitations established by State law; and

WHEREAS, excavation, trenching, boring, utility installation, and related digging activities within public rights-of-way may create hazards to motorists, pedestrians, City employees, contractors, and other persons using the right-of-way; and

WHEREAS, excavation activities may require the use of heavy equipment, trucks, excavators, trenching equipment, traffic-control devices, and other equipment that may obstruct or affect the normal use of public streets and rights-of-way; and

WHEREAS, excavation activities conducted during periods of reduced visibility or darkness may make construction equipment, work vehicles, open excavations, barricades, warning devices, and other obstructions more difficult for motorists and pedestrians to see, thereby increasing the potential for motor vehicle accidents, pedestrian accidents, equipment-related injuries, and damage to existing infrastructure; and

WHEREAS, the City's Public Works personnel responsible for water, wastewater, streets, and other public infrastructure are generally available during the City's regular operating hours to respond to utility damage, water leaks, sewer damage, service interruptions, roadway hazards, and other conditions resulting from excavation activities; and

WHEREAS, excavation activities conducted after the City's regular operating hours may result in damage to water or wastewater infrastructure at a time when appropriate City personnel may not be readily available to respond; and

WHEREAS, damage to a public water or wastewater system may result in extended interruptions of water or sewer service, uncontrolled water discharge, wastewater releases, roadway hazards, loss of sanitary services, or other conditions that may create a threat to public health, safety, sanitation, and welfare; and

WHEREAS, the City Council finds that maintaining routine excavation activities during the City's regular operating hours provides a reasonable opportunity for City personnel to respond to damage to public infrastructure and reduces the potential duration of interruptions to essential public services; and

WHEREAS, the City Council finds that establishing regular excavation hours from 8:00 a.m. until 3:30 p.m., Monday through Friday, is reasonably related to the City's normal Public Works staffing and availability and is intended to provide appropriate personnel a reasonable opportunity to respond to incidents resulting from excavation activities before the end of normal operating hours; and

WHEREAS, the City Council finds that reasonable procedures for authorizing excavation outside regular hours are necessary to accommodate circumstances in which excavation can be safely performed outside the regular hours without creating an unreasonable risk to the public or City infrastructure; and

WHEREAS, the City Council further finds that emergency excavation work must be permitted when necessary to protect life, property, public health, safety, or essential utility services; and

WHEREAS, the City Council finds that the regulations established by this ordinance are intended to apply generally to persons performing excavation and related digging activities within City rights-of-way and are reasonably necessary to protect the public health, safety, and welfare;

SECTION 1. PURPOSE AND AUTHORITY.

The purpose of this ordinance is to establish reasonable hours for excavation, trenching, boring, digging, utility installation involving excavation, and related excavation activities within public rights-of-way under the jurisdiction or control of the City of Trinity.

This ordinance is intended to protect the public health, safety, and welfare by reducing traffic and pedestrian hazards, reducing hazards associated with reduced visibility and darkness, protecting City infrastructure, minimizing interruptions of essential utility services, and ensuring that City personnel are reasonably available to respond to damage or interruption involving public water, wastewater, streets, and other City facilities.

This ordinance shall be administered in a manner consistent with applicable State and federal law, including Texas Local Government Code Chapter 283 and other applicable provisions governing telecommunications providers and their use of public rights-of-way.

SECTION 2. APPLICABILITY.

This ordinance shall apply generally to all persons, contractors, utility companies, telecommunications providers, public utilities, governmental entities, and other entities performing excavation, trenching, boring, digging, utility installation involving excavation, or similar excavation work within a public right-of-way under

the jurisdiction or control of the City of Trinity, except to the extent otherwise provided or preempted by State or federal law.

The City shall administer this ordinance in a manner that is competitively neutral and nondiscriminatory and shall not impose requirements that are prohibited by applicable State or federal law.

Nothing in this ordinance shall be construed to prohibit or unlawfully restrict emergency excavation or emergency response work authorized by applicable State law.

SECTION 3. REGULAR EXCAVATION HOURS.

Routine excavation, trenching, boring, digging, utility installation involving excavation, or related excavation activities within a City right-of-way shall be conducted between the hours of 8:00 a.m. and 3:30 p.m., Monday through Friday, unless otherwise authorized in writing by the City.

No person shall routinely conduct excavation, digging, trenching, boring, or related excavation activities within a City right-of-way outside the established hours without prior written authorization from the City.

Nothing in this section shall prohibit a person from continuing other lawful construction, installation, restoration, cleanup, or related activities after 3:30 p.m., provided that such activities do not include unauthorized excavation, digging, trenching, boring, or other activities regulated by this section.

The regular hours established by this section are intended to correspond with the City's normal Public Works operating and staffing hours and to provide a reasonable period during which City personnel responsible for public infrastructure are generally available to respond to utility strikes, water or sewer damage, roadway hazards, traffic-control issues, and other conditions associated with excavation activities.

SECTION 4. HEALTH AND SAFETY BASIS FOR EXCAVATION HOURS.

The City Council finds that excavation activities within public rights-of-way can create risks to public health and safety when conducted outside established operating hours.

Reduced visibility and darkness may make excavation equipment, work vehicles, open excavations, barricades, traffic-control devices, and other obstructions more difficult for motorists and pedestrians to see. The presence of heavy equipment and excavation activities within or adjacent to a roadway during periods of reduced visibility may increase the potential for motor vehicle collisions, pedestrian accidents, equipment-related injuries, and damage to existing infrastructure.

The City further finds that excavation activities may damage water lines, wastewater lines, stormwater facilities, streets, or other public infrastructure. When such damage occurs outside the City's normal operating hours, appropriate Public Works personnel may not be readily available to respond.

A significant water or wastewater interruption may result in residents or businesses being without water or sewer service for an extended period. Damage resulting in an uncontrolled water release, wastewater discharge,

loss of sanitary sewer service, or other utility failure may also create conditions affecting public health, sanitation, traffic safety, and the general welfare of the community.

The City Council finds that limiting routine excavation activities to the City's normal operating hours reduces the period during which a utility-related incident may remain without an appropriate City response and provides the City with a reasonable opportunity to address damage to essential public infrastructure before the condition becomes prolonged or creates additional risks to the public.

SECTION 5. AUTHORIZATION FOR EXCAVATION OUTSIDE REGULAR HOURS.

Excavation outside the regular hours established by this ordinance may be authorized by the City when the City determines that the proposed excavation can be safely performed and will not create an unreasonable risk to the public or City infrastructure.

A person requesting to conduct excavation outside regular hours shall provide the City with reasonable advance notice and shall identify:

(1) The location of the proposed excavation;

(2) The nature and scope of the excavation;

(3) The requested date and hours of excavation;

(4) The anticipated equipment and personnel involved;

(5) The proposed traffic and pedestrian control measures; and

(6) The reason the excavation must be conducted outside regular hours.

The City may approve, deny, or place reasonable conditions upon proposed after-hours excavation based upon public health, safety, traffic, pedestrian access, protection of public infrastructure, reduced visibility, availability of City personnel, or other legitimate right-of-way management considerations.

The City shall not unreasonably withhold authorization when the requested excavation can be safely performed and does not create an unreasonable risk to the public or City infrastructure.

Authorization for after-hours excavation shall be provided in writing by the City or by an official designated by the City.

SECTION 6. EMERGENCY EXCAVATION WORK.

Nothing in this ordinance shall prevent emergency excavation, repair, or response work that is immediately necessary to protect life, property, public health, public safety, or essential utility services.

A certificated telecommunications provider that is authorized by State law to begin emergency response work without prior municipal approval may begin such work, when necessary, under the circumstances, provided the provider notifies the City as promptly as possible after beginning the work and thereafter obtains any approval required by applicable City ordinance.

For all other emergency excavation work, the person performing the work shall notify the City as promptly as reasonably possible and shall comply with applicable City requirements as soon as practicable.

The City may require reasonable traffic-control, safety, restoration, and notification measures in connection with emergency excavation work.

SECTION 7. NOTICE AND COORDINATION.

Any person performing excavation within a City right-of-way shall maintain current contact information with the City and shall provide the City with reasonable notice of the location, anticipated schedule, and nature of the excavation when required by the applicable right-of-way permit or authorization.

The person performing the excavation shall immediately notify the City upon discovery of damage to City-owned or City-maintained water, wastewater, stormwater, roadway, drainage, or other public infrastructure.

The person performing the excavation shall take reasonable steps to protect the public and prevent further damage until appropriate City personnel or emergency responders arrive.

SECTION 8. TELECOMMUNICATIONS PROVIDERS.

Nothing in this ordinance shall be construed to prohibit or unlawfully restrict a certificated telecommunications provider from exercising rights granted under applicable Texas or federal law.

To the extent this ordinance applies to a certificated telecommunications provider using a City public right-of-way, the City shall administer this ordinance consistent with Texas Local Government Code Chapter 283, including Section 283.056.

The City may require a construction permit or other authorization to the extent permitted by applicable law. Any construction permit required of a certificated telecommunications provider shall be issued without a permit fee when required by Texas Local Government Code Chapter 283, and the terms of such permit shall be consistent with construction permits issued to other persons excavating in a public right-of-way.

Nothing in this section shall be construed to waive the City's authority to impose police-power-based regulations that are reasonably necessary to protect the health, safety, and welfare of the public and are otherwise authorized by law.

SECTION 9. TRAFFIC AND PEDESTRIAN SAFETY.

All excavation activities within a City right-of-way shall be conducted in a manner that protects motorists, pedestrians, bicyclists, City employees, workers, and other persons using the right-of-way.

Appropriate barricades, warning devices, lighting, traffic-control devices, and other safety measures shall be provided as required by applicable law, permit conditions, or direction of the City.

No excavation, equipment, materials, or excavation-related activity shall be permitted to create an unreasonable or unnecessary hazard to the traveling public.

SECTION 10. PROTECTION AND RESTORATION OF CITY INFRASTRUCTURE.

Any person performing excavation within a City right-of-way shall take reasonable measures to prevent damage to existing City infrastructure.

Any damage to City-owned or City-maintained infrastructure resulting from excavation shall be reported to the City immediately.

The person responsible for the excavation shall be responsible for restoration or repair to the extent authorized by applicable law and any applicable permit, agreement, or other legal requirement.

SECTION 11. ENFORCEMENT.

A violation of this ordinance may be enforced in accordance with the Code of Ordinances of the City of Trinity and applicable State law.

The City may require a person conducting unauthorized after-hours excavation, digging, trenching, or boring to cease the unauthorized excavation activity until the appropriate authorization has been obtained, except where applicable State law authorizes emergency response work.

Nothing in this ordinance shall be construed to require a person to cease other lawful construction, installation, restoration, cleanup, or related activities that do not constitute excavation, digging, trenching, boring, or other activities regulated by this ordinance.

Nothing in this ordinance shall be construed to limit any other remedy or enforcement authority available to the City under applicable law.

SECTION 12. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance regardless of the invalidity of any one or more provisions.

SECTION 13. REPEALER

All ordinances, resolutions, or portions thereof adopted by the City of Trinity that are in conflict with this Ordinance are hereby repealed to the extent of such conflict. All provisions not in conflict with this Ordinance shall remain in full force and effect.

PASSED AND APPROVED on this 13th day of October 2026.

Mayor – Billy Goodin

ATTEST: City Manager – Tracy Hutto