CHAPTER 1

STREETS, SIDEWALKS AND RIGHTS-OF-WAY

SECTION
16-102. Miscellaneous.
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16-101. Excavations. (1) Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city manager is open for business, and the permit shall be retroactive to the date when the work was begun.

(2) Applications. Applications for such permits shall be made to the city manager, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city manager within two (2) business days of its filing.

(3) Fee. The fee for such permits shall be as set forth in a resolution adopted by the board of commissioners.

(4) Deposit or bond. (a) No such permit shall be issued unless and until the applicant therefor has deposited with the city manager a cash deposit. The deposit shall be in the sum of five hundred dollars ($500.00)
if no pavement is involved or one thousand dollars ($1,000.00) if the
excavation is in a paved area and shall insure the proper restoration of
the ground and laying of the pavement, if any. Where the amount of the
deposit is clearly inadequate to cover the cost of restoration, the city
manager may increase the amount of the deposit to an amount considered
by him to be adequate to cover the cost. From this deposit shall be
deducted the expense to the city of relaying the surface of the ground or
pavement, and of making the refill if this is done by the city or at its
expense. The balance shall be returned to the applicant without interest
after the tunnel or excavation is completely refilled and the surface or
pavement is restored.

(b) In lieu of a deposit the applicant may deposit with the city
manager a surety bond in such form and amount as the city manager
shall deem adequate to cover the costs to the city if the applicant fails to
make proper restoration; and an applicant may deposit with the city
manager an annual surety bond in the amount of two thousand five
hundred dollars ($2,500.00) (or such other sum as the city manager
deems reasonable and necessary) to cover more than one (1) permit.

(5) Safety restrictions on excavations. Any person, firm, corporation,
association, or others making any excavation or tunnel shall do so according to
the terms and conditions of the application and permit authorizing the work to
be done. Sufficient and proper barricades and lights shall be maintained to
protect persons and property from injury by or because of the excavation being
made. If any sidewalk is blocked by any such work, a temporary sidewalk shall
be constructed and provided which shall be safe for travel and convenient for
users.

(6) Restoration of streets, etc. Any person, firm, corporation,
association, or others making any excavation or tunnel in or under any street,
alley, or public place in this city shall restore the street, alley, or public place to
its original condition including the surfacing; provided, however, the city
manager may direct the surfacing to be performed by the city or its contractors
at the cost and expense of such person, firm, corporation, association, or others
for which the excavation or tunnel was made. In case of unreasonable delay in
restoring the street, alley, or public place, the city manager shall give notice to
the person, firm, corporation, association, or others that unless the excavation
or tunnel is refilled properly within a specified reasonable period of time, the
city will do the work and charge the expense of doing the same to such person,
firm, corporation, association, or others. If within the specified time the
conditions of the above notice have not been complied with, the work shall be
done by the city, an accurate account of the expense involved shall be kept, and
the total cost shall be charged to the person, firm, corporation, association, or
others who made the excavation or tunnel.

(7) Insurance. In addition to making the deposit or giving the bond
hereinbefore required to insure that proper restoration is made, each person
applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars ($300,000.00) for each person and seven hundred thousand dollars ($700,000.00) for each accident, and for property damages not less than one hundred thousand dollars ($100,000.00) for any one (1) accident.

(8) **Time limits**. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city manager.

(9) **Supervision**. The person designated by the city manager shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (as added by Ord. #2012-197, March 2012)

16-102. **Miscellaneous**. (1) **Obstructing streets, alleys, or sidewalks prohibited**. No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

(2) **Trees projecting over streets, etc., regulated**. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8').

(3) **Trees, etc., obstructing view at intersections prohibited**. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

(4) **Gates or doors opening over streets, alleys, or sidewalks prohibited**. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law.
(5) **Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

(6) **Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way.

(7) **Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (as added by Ord. #2012-197, March 2012)

**16-103. Parking.** (1) **Prohibited parking or stopping of any vehicle generally.** It is unlawful to park or stop any vehicle:

(a) So as to prevent the free passage of other vehicles, including bicycles, on any street, road, or right-of-way;

(b) In a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic;

(c) On any planting strip, sidewalk, bike path or pedestrian way; or

(d) For the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

(2) **Commercial vehicles.** (a) "Commercial vehicle" means any vehicle or towed vehicle used in commerce principally to transport passengers, cargo, or equipment. Commercial vehicles include, but are not limited to:

(i) Landscaping vehicles, equipment and trailers;

(ii) Construction vehicles, equipment and trailers;

(iii) Any vehicle utilized for construction or landscaping related activities; and

(iv) Private passenger vehicles used by persons performing landscaping or construction related services on private property.

(b) Commercial vehicles should be stopped or parked outside of the public right-of-way and on private property. However, if circumstances are such that a commercial vehicle is stopped or parked within the public right-of-way, it may be done provided:

(i) Such stopping or parking is not otherwise prohibited by subsection (1) herein; and

(ii) The driver of the commercial vehicle employs commercially reasonable traffic control measures, such as signs, flags, or cones, to alert motorists to the hazard posed by the stopped or parked commercial vehicle.
(c) The city manager, building inspector (or their designees) may issue a stop work order to any person holding a building permit, or any related city-issued permit, who violates this chapter, or whose contractor, employee, agent or subcontractor violates this chapter. The stop work order will remain in effect until all violations of this chapter are remedied and the permit-holder delivers a written parking plan to the city. A stop work order may be issued in addition to any and all other penalties permitted by law. (as added by Ord. #2014-217, Aug. 2014)

16-104. Violation and penalty. It shall be a civil offense to violate any provision of this chapter, which civil offense shall be punishable by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation. Each day a violation shall be allowed to continue shall constitute a separate offense. Furthermore, the city manager or the city attorney are authorized to seek injunctive relief to prohibit violations of this chapter. (as added by Ord. #2012-197, March 2012, and renumbered by Ord. #2014-217, Aug. 2014)