

TITLE 7 CHAPTER 4
STREET EXCAVATIONS

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7-4-1: **SHORT TITLE:** This Chapter shall be known and may be cited as the “Street Excavation Ordinance of the City of Albion, Idaho.”

7-4-2: **DEFINITIONS:** For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, the words used in the present tense include the future; words in the plural include the singular number, and words in the singular include the plural number. The word “shall” is always mandatory and not merely directory.

APPLICANT:

Any person making written application to the City Engineer for an excavation permit number.

CITY ENGINEER:

An Engineer appointed or hired by the City.

EXCAVATION WORK:

The excavation and other work permitted under an excavation permit and required to be performed under this Chapter.

PERMITEE:

Any person who has been granted and has in full force and effect an excavation permit issued hereunder.

STREET:

Any street, highway, sidewalk, alley, avenue or other public way or public grounds in the City.

7-4-3: EXCAVATION PERMIT REQUIRED; FEE: It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefore from the City as herein provided.

A permit fee of One Hundred Dollars (\$100.00) shall be charged by the City for the issuance of an excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work.

7-4-4: APPLICATION FOR PERMIT: No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the City. The written application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and the date of completion of the excavation and other data as may reasonably be required by the City. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and the elevations of both the existing ground prior to said excavation and of the proposed excavated surfaces, the location of the excavation work and such other information as may be prescribed by the City.

7-4-5: SURETY BOND REQUIRED: Before an excavation permit, as herein provided, is issued, the applicant shall deposit with the City Clerk a cash deposit or surety bond in the amount of Twenty Thousand Dollars (\$20,000.00), payable to the City. The required bond must be:

(A) With a good and sufficient surety.

(B) By a surety company authorized to transact business in the State.

(C) Satisfactory to the City Attorney in form and substance .

(D) The cash deposit or surety bond shall be upon the condition that the permittee shall comply with this Chapter and shall repair any underground apparatus, including but not limited to cables, wires and pipes and fill up, restore and place in good and safe condition as nearly as may be to its original condition, and to the satisfaction of the City Engineer, all openings and excavations made in streets, and to maintain any street where excavation is made in a good condition for the period of twenty four (24) months after said work shall have been done, usual wear and tear excepted, as it was in before said work shall have been done. Any settlement of the surface within said two (2) year period shall be deemed conclusive evidence of defective backfilling by the permittee. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the City if such repairs should prove defective, Recovery on such bond for any injury or accident shall not excuse the bond but it shall cover in its entirety any or all future accidents or injuries during the excavation work for which it is given. In the event any suit or claim against the City is filed, by reason of the negligence or default of the permittee, upon the City's giving written notice to the permittee of such suit or claim, any final judgment against the City requiring it to pay for such damages shall be conclusive upon the permittee and his surety.

(E) An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified above and in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date.

7-4-7: CASH DEPOSITS: In the event of a cash deposit as allowed in Section 7-4-5 hereof, upon the permittee's completion of the work covered by such permit in conformity with the Chapter as determined by the City, two-thirds (2/3) of such cash deposit, except in the case of an annual deposit, shall be promptly refunded by the City to the permittee and the balance shall be refunded by the City to the permittee upon the expiration of such twenty four (24) months' period; provided for which the deposit is made or the end of the one-year period for which the deposit is made or the satisfactory completion of all excavation work undertaken during such period, whichever is later, and the balance of the annual deposit shall be refunded at the expiration of a twenty four (24) month period following the completion of such excavation work; and provided, further, that the City may use any or all of any such deposit to pay the costs of any work the City performs to restore or maintain the street as herein provided in the event the permittee fails to perform such work, in which event the amount refunded to the permittee shall be refunded to the permittee shall be reduced by the amount thus expended by the City, or in the event of a refund by the amount thus expended by the City, or in the event of a refund and more is needed, the permittee shall be liable therefore.

7-4-7: LIABILITY INSURANCE: A permittee, prior to the commencement of excavation work hereunder, shall furnish the City satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than One Hundred Thousand Dollars (\$100,000.00) for any person and Three Hundred Thousand Dollars (\$300,000.00) for any one accident and property damage insurance of not less than Fifty Thousand Dollars (\$50,000.00) duly issued by an insurance company authorized to do business in this State.

7-4-8: ROUTING OF TRAFFIC: The permittee shall take appropriate measures to assure that during the performance of the excavation work traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the City may permit the closing of a street to all traffic for a period of time prescribed by him/her if in his/her opinion it is necessary. The permittee shall route and control traffic, including its own vehicle as directed by the Sheriff's Department. The following steps shall be taken before any street may be closed or restricted to traffic:

(A) The permittee must receive the approval of the City and Sheriff's Department therefore;

(B) The permittee must notify the Albion Fire District of any street so closed;

(C) Upon completion of construction work, the permittee shall notify the City, Albion Fire District and the Sheriff's Department before traffic is moved back to its normal flow so that any necessary adjustments may be made;

(D) Where flagmen are deemed necessary by the City, they shall be furnished by the permittee at his own expense. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the City will designate detours. The City shall maintain roadway surfaces of the existing streets designated as detours without expense to the permittee but in case there are not existing streets, the permittee shall construct all detours at its own expense and in conformity with the specifications of the City. The permittee will be responsible for any unnecessary damage caused to any streets by the operation of its equipment.

7-4-9: CLEARANCE FOR FIRE EQUIPMENT: The excavation work shall be performed and conducted so as not to interfere with the access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen feet (15') of the fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of materials or other obstructions.

7-4-10:REMOVAL OF UTILITIES; PROTECTIVE MEASURES:

(A) Utilities: The permittee shall not interfere with any existing utility without the written consent of the City and the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the City shall be moved to accommodate the permittee unless the costs of such work shall be borne by the permittee. The costs of moving privately-owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his/her bond shall be liable therefore. The permittee shall be responsible for any damage done to the public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefore. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

(B) Protection of Adjoining Property: The permittee shall at all times and at his own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for that purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purposes and if he/she cannot obtain a license from such owner, the City may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall, at its own expense, shore up and protect the buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through or otherwise excavate any lawn area, all construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas or easements across private property without first having notified the property owner, or in the case of public property the appropriate City department or City official having control of such property.

(C) Barriers: The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the City street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets suitable and sufficient lights which shall be kept burning throughout the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided there for the protection of the public.

(D) Watercourses: The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the same in as good a condition as he/she found them as the City may direct. The permittee shall not obstruct the gutter of any street but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provisions to take care of all surplus water, muck, silt, slickings or other run-off pumped from the excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from his/her failure to so provide.

7-4-11: SIDEWALK EXCAVATION: Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least three feet (3') wide and securely railed on each side so that foot passengers can pass over safely at all times.

7-4-12: ATTRACTIVE NUISANCE: It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening of machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and be hazardous to their safety or health.

7-4-13: CARE OF EXCAVATED MATERIALS: All materials excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to

endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the City shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permissions and make all necessary arrangements for all required storage and disposal sites.

7-4-14: DAMAGE TO EXISTING IMPROVEMENTS: All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repair shall conform with the requirements of any applicable code or ordinance of the City. If upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the City shall have the authority to cause said necessary labor and materials to be furnished by the City and the cost shall be charged against the permittee who shall also be liable on his/her bond therefore.

7-4-15: PROPERTY LINES AND EASEMENTS: Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit and it shall be the permittee's responsibility to confine excavation work within these limits.

7-4-16: CLEAN UP: As the excavation work progresses, all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the City. From time to time as may be ordered by the City and in any event immediately after completion of said work the permittee shall at his own expense clean up and remove all refuse and unused materials of any kind resulting from said work and upon failure so to do within twenty four (24) hours after having been notified by the City, said work may be done by the City and the costs thereof charged to the permittee, and the permittee shall also be liable for the costs thereof under the surety bond provided hereunder.

7-4-17: BREAKING THROUGH PAVEMENT; TUNNELS:

(A) Whenever it is necessary to break through existing pavement for excavation purposes, the pavement in the base shall be removed to at least six inches (6") beyond the outer limits of the sub-grade that is to be disturbed in order to prevent settlement, and a six inch (6") shoulder or undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.

(B) Tunnels under pavement shall not be permitted except by permission of the City and if permitted shall be adequately supported by timbering and backfilling under direction of the City.

7-4-18: BACKFILLING; RESTORATION OF SURFACE:

(A) Backfilling: Backfilling in any street opened or excavated pursuant to an excavation permit

issued hereunder shall be compacted to a degree equivalent to the undisturbed ground in which the trench was dug. All backfilling shall be done in a manner acceptable to the City. Any water used in backfilling shall be paid for by the permittee on the terms agreed upon with the City.

(B) Restoration of Surface:

1. Requirements of Permittee: The permittee shall restore the surface of all streets, broken into or damaged as a result of the excavation work to its original condition in accordance with the specifications of the City.

Acceptance or approval of any excavation work by the City shall not prevent the City from asserting a claim against the permittee and his/her surety under the surety bond required hereunder for incomplete or defective work if discovered within twenty four (24) months from the completion of the excavation work. The presence of personnel during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.

2. City's Right to Restore Surface: If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, the City Engineer, if he/she deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual costs thereof and twenty five percent (25%) of such cost in addition for general overhead and administrative expenses. The City shall have a claim for all fees, expenses and amounts paid out and due it for such work including the fees of the City Engineer and shall apply in payment of the amount due if any funds of the permittee deposited as herein provided, and the City shall also enforce its rights under the permittee's surety bond provided pursuant to this Chapter.

7-4-19: PROMPT COMPLETION OF WORK: The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable and in any event not later than the date specified in the excavation permit therefore.

7-4-20: URGENT WORK: If in his/her judgment traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the City Engineer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee twenty four (24) hours a day to the end that such excavation work may be completed as soon as possible.

7-4-21: EMERGENCY ACTION: In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the life, property, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the City Clerk's office is open for

business, and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

7-4-22: NOISE, DUST AND DEBRIS: Each permittee shall conduct and carry out the excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and during the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. shall not use, except with the express written permission of the City or in case of any emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

7-4-23: PRESERVATION OF MONUMENTS: The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered so to do by the City.

7-4-24: INSPECTIONS: The City shall make such inspections as are reasonably necessary in the enforcement of this Chapter. The City shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this Chapter. Costs of all fees to hire a City Engineer shall be paid by the permittee.

7-4-25: MAINTAIN DRAWINGS: Users of subsurface street space shall maintain accurate drawings, plans and profiles showing the location and character of all underground structures including abandoned installations. Corrected maps shall be filed with the City within sixty (60) days after new installations, changes or replacements are made.

7-4-25: EXCEPTIONS: The provisions of this Chapter shall not be applicable to any excavation work under the direction of competent City authorities by employees of the City or by any contractor of the City performing work for and on behalf of the City necessitating openings or excavations in streets.

7-4-26: PUBLIC SERVICE COMPANIES: All persons operating public utilities in the City under franchises granted by the City or applicable law, and having the right either by general or special permission to enter upon streets and open excavate pavements, sidewalks or disturb the surface thereof by excavation or other work shall not be required to apply for a permit but shall be required to perform the work and bring it to completion as promptly as practicable and to that end shall employ an adequate standing force. Any person operating any such public utility shall, however, comply with other requirements of this Chapter, including the surety bond and deposit requirements.

7-4-28: LIABILITY OF CITY: This Chapter shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.