

Manhattan Beach Municipal Code

Chapter 7.16 - EXCAVATIONS—STREETS, ALLEYS, SIDEWALKS AND PUBLIC PLACES

Sections:

7.16.010 - Title.

This chapter shall be known as the "Street Excavation Regulations."

7.16.020 - Definitions.

For the purposes of this chapter, certain words and phrases are defined and shall be construed as hereinafter set out, unless it shall be apparent from the context that a different meaning is intended. The word "shall" is always mandatory and not merely directory.

- A. "Excavation" shall mean any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.
- B. "Construction" shall mean the addition of new, the repair of, or the remodeling of existing, permanent structures or appurtenances thereto, within the public place.
- C. "Administrative Authority" shall mean the Director of Public Works or his authorized representative.
- D. "Public place" shall mean any public street, way, place, alley, sidewalk, park, square, plaza or any other similar public property owned by the City and controlled by the Administrative Authority and dedicated to public use.
- E. "Substructure" shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or any other similar structure located below the surface of any public place.
- F. "Facility" shall mean pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole lines, anchor, cable junction box, transformer or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any public place.
- G. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- H. "Utility" shall mean a private company and/or corporation or municipal department engaged in providing a particular service to the general public.
- I. "Incidental expenses" means all expenses incidental to any work authorized by permit under this chapter or incidental to the inspection, supervision or completion thereof, including a reasonable charge for overhead.

7.16.030 - Excavation and/or construction permit.

No person shall make any excavation or construction or fill any excavation in any public place without first obtaining a permit so to do from the Administrative Authority except as otherwise provided in this chapter. No permit to make an excavation or construction or fill an excavation in a public place shall be issued except as provided in this chapter.

7.16.040 - Application.

No excavation and/or construction permit shall be issued unless a written application (on a form provided by the Administrative Authority) for the issuance of an excavation and/or construction permit is submitted to the Administrative Authority. The written application shall state the name and address and principal place of business of the applicant, the authority of applicant to occupy the public place for which the permit is sought, the location and dimensions of the installation or removal and the approximate size of the excavation to be made, the purpose of the facility and the approximate time which will be required to complete such work, including backfilling said excavation and removing all obstructions, material and debris. The applicant shall include a plat or plan showing the proposed work in the excavation and construction site, and contiguous property if pertinent to the work. The Administrative Authority may require a survey be made of the public place by a registered civil engineer, or licensed land surveyor, to be submitted with the application. An extension of time may be granted by the Administrative Authority for good and sufficient reasons. The application, when approved and signed by the Administrative Authority, shall constitute a permit.

7.16.050 - Excavation and/or construction permit fees.

A permit fee shall be charged by the Administrative Authority for the issuance of an excavation and/or construction permit as established by the Council under separate resolution. No refund shall be made on permit fees, and all monies collected shall revert to the City.

(§ 22, Ord. 1458, eff. June 1, 1976)

7.16.060 - Surety bond and insurance policies.

Prior to the issuance of an excavation and/or construction permit, as herein provided, the applicant shall deposit with the Administrative Authority the following:

- A. A good and sufficient surety bond, in form approved by the City Attorney, in favor of the City in the amount of One Thousand Dollars (\$1,000.00), for the protection of the first fifty (50) lineal feet of the public place employed in the proposed work, and an additional One Thousand Dollars (\$1,000.00) surety shall be required by the City for each additional fifty (50) lineal feet contained within the work area; such bond conditioned upon the permittee's securing and holding the City and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the excavation and/or construction permit. Recovery of such bond for any injury or accident shall not exhaust the bond but it shall, in its entirety, cover any or all future accidents or injuries during the excavation and/or construction work for which it is given subject to an aggregate to be determined by the Administrative Authority. In the event of any suit or claim against the City 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 damage shall be conclusive upon the permittee and his surety. 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 and/or construction work in public places by the principal in such bond during the term of one year from said date.
- B. Public liability policy, issued by an insurance carrier which is duly qualified to engage in such insurance business under the laws of the State of California, approved by the City Attorney as to form and sufficiency, insuring the City, as co-insured, against any and all liability of any nature whatsoever resulting from the prosecution of the work for which an application for permit has been made, in the following amounts:

Two Hundred Fifty Thousand Dollars (\$250,000.00) for death, or bodily injury or loss sustained by any one person in any accident;

Five Hundred Thousand Dollars (\$500,000.00) for death, or bodily injury or loss sustained by more than one person in any one accident; and

Two Hundred Fifty Thousand Dollars (\$250,000.00) for loss occasioned by damage or injury to property in any one accident;

or such other limits as may be directed by the Administrative Authority.

The procuring of such policy of insurance shall not be construed as a limitation of the applicant's liability or as a full performance on the applicant's part of the indemnification provisions of the permit, applicant's liability being, notwithstanding said policy of insurance, for the full and total amount of any damage, injury or loss caused by or incident to applicant's operations under the permit.

- C. **Exemption.** Provided, however, that public utilities operating under the supervision of the Public Utilities Commission, public utilities holding a franchise from the City, City departments and other governmental agencies, may be relieved of the obligation of submitting a surety bond and/or policy of insurance by the Administrative Authority, but any such waiver shall not release any such party from any or all liability under any of the obligations provided in this chapter; and provided, further, that such surety bond and/or policy of insurance may be waived by the Administrative Authority for work to be done between the curb and the property line of any street and upon satisfactory evidence that the work can be performed without constituting a hazard to the public.

(§ 1, Ord. 1120, eff. August 1, 1968)

7.16.070 - Cash deposits.

- A. **Special deposits.** When, in the opinion of the Administrative Authority, the extent of the proposed work does not require a surety bond, a cash deposit, as stipulated in the "Permit and Inspection Fee Schedule" shall be made to the Administrative Authority for deposit with the City Treasurer in accordance with the adopted rate schedule of the Administrative Authority.
- B. **Purpose.** Any special deposit made hereunder shall serve as security for the repair and performance of work necessary to put the public place in as good a condition as it was prior to the excavation and/or construction if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation and/or construction work under the excavation and/or construction permit.
- C. **Refund of special deposits.** Upon the permittee's completion of the work covered by such permit in conformity with this chapter as determined by the Administrative Authority, such special deposit shall be refunded by the City to the permittee. The Administrative Authority may use any or all of such special deposits to pay the cost of any work and/or incidental expenses the Administrative Authority performs or incurs to restore or maintain the public place as herein provided in the event the permittee fails to perform such work, in which event the amount refunded to the permittee shall be reduced by the amount thus expended by the Administrative Authority.
- D. **Public utility companies.** Where excavations and/or construction are made by public utility companies operating under a franchise issued by the City or under the supervision of the Public Utilities Commission or utilities operated by governmental agencies, a permit may be granted without making such deposit. In such cases, the utilities shall be liable for the actual cost of any work required to be done by the Administrative Authority in restoring the area covered by such excavation or construction to as good condition as the same was in before such work was done. Further, provided, however, that the Administrative Authority may, in the future, require such deposit from any such utility if a bill rendered in accordance with this section remains unpaid thirty (30) days after date of billing.

7.16.080 - Protective measures and routing of traffic.

It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain barriers and warning devices necessary for safety of the general public.

Barriers, warning signs, lights, etc., shall conform to the requirements of the Administrative Authority. Warning lights shall be flares, torches, lanterns, electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Torches shall be open wick or flame flares or bombs generally used in connection with road repairs or construction and operating on kerosene or similar fluid.

Lanterns shall burn kerosene or a similar fluid, and have clear red or ruby globes. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace, light sources. The Administrative Authority may restrict the use of lanterns or open flame devices in fire hazard areas.

The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

When traffic conditions permit the Administrative Authority may by written approval permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. The written approval of the Administrative Authority may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the Administrative Authority.

7.16.090 - Clearance for vital structures.

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, and all other vital equipment as designated by the Administrative Authority.

7.16.100 - Protection of traffic.

The permittee shall maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than three hundred feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

7.16.110 - Relocation and protection of utilities.

The permittee shall not interfere with any existing facility without the written consent of the Administrative Authority and the owner of the facility. If it becomes necessary to relocate an existing facility this shall be done by its owner. No facility owned by the City shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. 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. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility.

The City shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

7.16.120 - Abandonment of substructures.

Whenever the use of a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling, or having an interest therein, shall within thirty (30) days after such abandonment file with the Administrative Authority a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way, or subsequently becomes in the way, of an installation of the City or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned substructure or pay the cost of its removal during the course of excavation for construction of the facility by the City or any other public body.

7.16.130 - Protection of adjoining property.

The permittee shall at all times and at his or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protecting measures, the permittee shall obtain a license from the owner of such private property for such purpose and if he cannot obtain a license from such owner, the Administrative Authority 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 all 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 any lawn area, said area shall be reseeded or the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. 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 without first obtaining the consent of the appropriate City department or City official having control of such property.

7.16.140 - Care of excavated material.

All material 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 Administrative Authority shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

All trench and tunnel excavations and construction shall conform with the safety requirements for shoring, bracing and ladders in trenches in accordance with State of California "Trench and Tunnel Construction Safety Orders," as they now or may hereafter exist.

All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Administrative Authority. Whenever necessary, in order to expediate the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the Administrative Authority to prevent the spreading of dirt into traffic lanes.

7.16.150 - Clean up.

As the excavation work progresses, all streets 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 Administrative Authority. From time to time, as may be ordered by the Administrative Authority and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four (24) hours after having been notified to do so by the Administrative Authority, said work may be done by the Administrative Authority and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.

7.16.160 - Protection of watercourses.

The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot (1') in width from the face of such curb at the gutterline. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained.

The permittee shall make provisions to take care of all surplus water, muck, silt, slickings, or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

7.16.170 - Breaking through pavement.

- A. Heavy duty pavement breakers may be prohibited by the Administrative Authority when the use endangers existing substructures or other property.
- B. Saw cutting of Portland cement concrete may be required by the Administrative Authority when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall be not less than one inch (1") in depth; however, depths greater than one inch (1") may be required by the Administrative Authority when circumstances warrant. Saw cutting may be required by the Administrative Authority outside of the limits of the excavation over caveouts, overbreaks and small floating sections.
- C. Approved cutting of bituminous pavement surface ahead of excavations may be required by Administrative Authority to conform pavement damage to the limits of the trench.
- D. Sections of sidewalks shall be removed to the nearest score line or joint.
- E. Unstable pavement shall be removed over caveouts and overbreaks and the subgrade shall be treated as the main trench.
- F. Pavement edges shall be trimmed to vertical face and neatly aligned with the center line of the trench.
- G. Cutouts outside of the trench lines must be normal or parallel to the trench line.
- H. Boring or other methods to prevent cutting of new pavement may be required by the Administrative authority.
- I. Permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

7.16.180 - Depth of structures.

No person shall, without written permission of the Administrative Authority, install any substructure, except manholes, vaults, valve casings, culverts, and catch basins at a vertical distance less than:

- A. Streets:
 - 1. Twenty-four inches (24") below the established flow line of the nearest gutter.

- a. If said flow line is not established, then the depth shall be at a minimum of twenty-four inches (24") below the surface of the nearest outermost edge of the traveled portion of the street.

B. Parkway:

1. The minimum depth of any substructure shall be sixteen inches (16") below established gutter grade when said substructure parallels the parkway.
2. The minimum depth of any substructure shall be twelve inches (12") below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.

C. Other public places:

1. The minimum depth of any substructure in any other public place shall be twelve inches (12") below the surface; provided, however, that the Administrative Authority may permit a lesser depth in special cases.

Nothing in this section shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the grade in said substructure interferes with the maintenance of, or travel on, a public street.

7.16.190 - Backfilling.

Fine material, free from lumps and stone, selected from the spoil shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the degree of consolidation specified by the Administrative Authority. Broken pavement, large stones, roots and other debris shall not be used in the backfill. The number and size of each lift shall be dependent upon the type of soil involved. Such backfill shall be done in a manner that will permit the restoration of the surface to a density condition not less than that existing prior to excavation unless otherwise specified. The Administrative Authority may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the Administrative Authority. All expense of such tests shall be borne by the permittee.

7.16.200 - Restoration of structures.

If, as the result of new construction or remodeling on private property or in the public place, and in the opinion of the Administrative Authority, previously existing structure becomes obsolete, unusable, or unnecessarily duplicates any portion of the new structure, the said structure shall be removed and/or restored to conform to adjacent standard structures. In particular, the depressed curb of a driveway approach, which does not lead to a garage currently usable, shall be restored according to the standard curb, gutter, and sidewalk dimensions for the specific area as prescribed by the Administrative Authority.

7.16.210 - Restoration of surfaces.

- A. **By permittee.** Upon completion of the backfilling, and when required, temporary resurfacing of an excavation within a public place for the installation or removal of substructures, the Administrative Authority, at his option, may require the permittee to resurface that portion of the street surface damaged by the permittee's excavation, in which event resurfacing shall be done in a manner and under specifications prescribed by the Administrative Authority and subject to the inspection of the Administrative Authority, and shall be completed within a period of sixty (60) days after such authorization to complete final resurfacing.

7.16.220 - Trenches in pipe laying.

The maximum length of open trench permissible at any time shall be in accordance with existing codes or regulations or as may be specified by the Administrative Authority and no greater length shall be open for pavement removal, excavation, construction, backfilling, patching and all other operations without the written permission of the Administrative Authority.

7.16.230 - Prompt completion of work.

After an excavation is commenced, 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, so as not to obstruct the public place or travel thereon more than is reasonably necessary.

7.16.240 - Urgent work.

When 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 Administrative Authority 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.

7.16.250 - Emergency action.

Nothing in this chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the Administrative Authority for such a permit on the first working day after such work is commenced.

7.16.260 - Noise, dust and debris.

Each permittee shall conduct and carry out excavation work in such 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 between the hours of 5:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the Administrative Authority or in case of an 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.

7.16.270 - Preservation of monuments.

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the City, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Administrative Authority so to do. Permission to remove or disturb such monuments, reference points or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of this monument by the Administrative Authority.

7.16.280 - Inspections.

The Administrative Authority shall make such inspections as are reasonably necessary in the enforcement of this chapter. The Administrative Authority 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.

- A. **Inspection fee required.** The Administrative Authority shall charge the permittee for each inspection or reinspection performed as established by the Council under separate resolution. Such other inspections shall be determined from the "Permit and Inspection Fee Schedule," a copy of which shall be available to the public.

(§ 23, Ord. 1458, eff. June 17, 1976)

7.16.290 - Maintenance of drawings.

Every person owning, using, controlling or having an interest in substructures, under the surface of any public place used for the purpose of supplying or conveying gas, electricity, communication impulse, water, steam, ammonia or oil in the city, shall file with the Administrative Authority within one hundred twenty (120) days after the adoption of this chapter a map or set of maps each drawn to a scale of not less than one inch (1") to 200 feet, scale showing in detail the plan location, size and kind of installation, if known, of all substructures, except service lines designed to serve single properties beneath the surface of the public place belonging to, used by or under the control of such person having any interest, and shall file with the Administrative Authority annually at a time specified by the Administrative Authority, a corrected map or set of maps each drawn to said scale including all installations made during the previous year to and including the last day of such year, provided, however, that a public utility owner may at its option provide corrected atlas sheets at more frequent intervals.

7.16.300 - Liability of City.

This chapter shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damage to any person injured by the performance of any excavation and/or construction work for which an excavation and/or construction 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 and/or construction work.

7.16.310 - Penalties.

Violation of this chapter is a misdemeanor. Every person is guilty of a misdemeanor who willfully violates any provision of this chapter or fails or neglects to comply with any requirements of this chapter. Such person is guilty of a separate offense for each and every day during any part of which any such violation or noncompliance occurs and is punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment.

(§ 1, Ord. 1061, eff. March 23, 1967)