

ORDINANCE NUMBER 504

AN ORDINANCE TO REGULATE THE MAKING OF CUTS IN STREETS; TO REQUIRE APPLICATIONS, PERMITS, AND SECURITY THEREFOR; AND TO PRESCRIBE PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ORDINANCES NUMBER 21 AND 110, AND ALL OTHER ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

SECTION 1. It shall be unlawful for any person, firm, or corporation to cut, break, dig up, damage in any manner, undermine, or tunnel under any public street or alley without first making application to the City Engineer, depositing security, and obtaining a permit therefor, as provided in this ordinance.

SECTION 2. APPLICATIONS. Applications for said permits shall be in the form prescribed by the city engineer and shall specify the name and address of the applicant; the date of the application, the name of the street or alley to be cut or tunneled under, the nature of the street surface or pavement involved, the purpose of the work, the size and nature of the cut or excavation, the number of days required to complete the work, and an agreement to deposit such security as required by the city engineer, to comply with the provisions of this ordinance and with the specifications of the city engineer pertaining to the conduct of the work, to save the city and its employees harmless against any injury or damage that may result from the acts of the applicant, and to file a report of the work done within 48 hours of its completion. Applications shall also contain or be accompanied by such maps, plans information, and stipulations as may be required by the city engineer.

SECTION 3. SECURITY. Before the issuance of any permit the city engineer shall require the applicant to file with him as security either:

(a) A security bond in an amount fixed by the city engineer, but not to exceed \$500.00, conditioned that the applicant will, immediately upon the completion of the work, remove all surplus earth, rubbish, or other material, replace the pavement cut or undermined in a condition as good as or better than it was before, and keep the same in good repair, at his own expense, for a period of time to be designated by the city engineer but not to exceed one year from the completion of said work.

(b) Cash or certified checks in an amount equal to twice the estimated replacement value of the pavement to be cut, together with the cost of re-excavation and refilling with proper material, if necessary, as determined by the city engineer, to be held and returned subject to the same conditions as set forth above in the case of surety bonds; or

(c) A blanket surety bond to cover all street cuts made by any particular applicant for a period of one year in an amount to be fixed by the city engineer, but not to exceed \$5,000.00, and subject to the same conditions as stated above with references to bonds for particular streets no security shall be required, unless, in the opinion of the city engineer, such security is necessary for the protection of the public interest.

SECTION 4. PERMITS. If the city engineer is satisfied that the excavation, cut, or tunnel is feasible and proper, that the said application has been made in due form, and that adequate security has been filed, as required by the provisions of this ordinance, he shall designate: the name and address of the person to whom the permit is granted, the date of the issuance of the permit, the streets to be cut or tunneled under, the nature of the street surface or pavement involved, the purpose of the work, the size and nature of the cut or excavation, the estimated cost of restoration, the nature and amount of security deposited, the time within which the work is to be completed, as determined by the city engineer, and such other restrictions as may be deemed necessary or proper by the engineer for the safety of the public and the protection of public interest.

SECTION 5. CONDUCT OF WORK. All work under said permits shall be done in conformity with the provisions of this ordinance, the terms of said application and permits, and under the supervision and subject to the approval of the city engineer. Upon completion of the excavation, cut, or tunnel, all surplus earth, rubbish, or other material shall be removed immediately and the street or surface pavement shall be replaced in as good or better condition than it was before.

SECTION 6. REFERENCE TO AND EXHIBITION OF PERMIT. No work shall be undertaken other than that specified in the application and permit for the particular cut or excavation. Upon demand of the city engineer, his associate, or any city police officer, said permit shall be produced at the place where work is in process, or such work shall be stopped until said permit is produced.

SECTION 7. NOTICE OF COMPLETION OF WORK. Within 48 hours of the completion of said cuts or excavations the person to whom the permit to do such work has been issued, shall report to the city engineer, stating that such work has been completed and given such other information as may be required by said city engineer.

SECTION 8. BARRICADES AND SAFETY MEASURES. Whenever any person, firm or corporation shall, under authority of this ordinance or otherwise, place any obstruction in any street or alley or make any excavation therein for any purpose whatsoever, it shall be the duty of such person or corporation to keep such obstruction or excavation properly safeguarded by substantial barricades and to display lighted red lanterns or other lights or flares from dusk until daylight in conformity with such regulations as may be specified by the city engineer. Whenever, in the opinion of the city engineer, the public safety is so seriously endangered by said cuts or excavations as to require constant supervision from dusk to daylight to insure that all barricades are in proper condition, that all warning lights are burning, and that traffic is properly routed around such barricades, the person to whom the permit for the work has been granted shall be responsible for furnishing a night watchman for that purpose.

SECTION 9. LIABILITY FOR ACCIDENTS. Every person, firm or corporation having occasion to place any obstruction in any street or alley or to make any excavation therein under the provisions of this ordinance, shall be responsible to any one for any injury by reason of the presence of such obstruction or excavation in the public highways and also shall be liable to the City of Milwaukee, in the event that the city shall be held responsible for any accident claims or otherwise arising out of the presence of any such obstruction or excavation in said public highway.

SECTION 10. REPAIR. All persons to whom such permits are granted shall be personally responsible for the maintenance and repair of the street surface or pavement cut, dug up, damaged, tunneled under, or undermined under the provisions of said permit, in as good as or better condition than before such work was undertaken, at their own expense and for such period of time as may be required by the city engineer, but not to exceed one year.

SECTION 11. OPTION TO CITY TO REPLACE PAVEMENT. Whenever, in the opinion of the city engineer, it would be to the best interests of the city for the city to replace or repair the street surface or pavement, cut dug up, damaged, tunneled under, or undermined under the provisions of this ordinance such work shall be done by the city under the direction of the city engineer and the cost of said work shall be either charged to the person to whom the permit for the said cut or excavation has been granted or deducted from the security deposited by him with the city engineer.

SECTION 12. APPLICATION TO CITY EMPLOYEES AND PUBLIC UTILITIES. The provisions of this ordinance shall not be deemed to apply to the construction or maintenance of pavement by the city, by its employees, or by persons operating under contract with the city, nor to cuts or excavations made by the employees of the city water department, nor to city street department nor to public utility corporations operating under the provisions of franchises regulating street cuts or excavations by such corporations; but both the employees of the city and all public utility corporations shall give prior notice report to the city engineer of all street cuts which would otherwise be subjected to the provisions of this order.

SECTION 13. PENALTIES. Any person violating any provision of this ordinance shall, upon conviction thereof, be punished by a fine of not to exceed \$100.00 in the discretion of the Municipal Judge.

SECTION 14. That Ordinances Numbered 21 and 110 and any and all other ordinances or parts of ordinances in conflict herewith be and the same hereby are repealed.

Passed by the City Council this 22 day of December, 1947.

Approved by the Mayor this 22 day of December, 1947.

FRED SPERR  
Mayor

ATTEST:

ELLEN MARTIN  
Recorder