

An Ordinance to Regulate the Construction, Alteration and Repair of any curb, sidewalk or street surface within the Corporate Limits of the City of Milwaukee, or within the area of any Street, Alley, Road or Highway, both sides of which are contiguous to real property within the Corporate Limits of the City of Milwaukee; To require applications, permits and security therefore; and amending Ordinance No. 504; and repealing all other ordinances and parts of ordinances in conflict herewith; providing a penalty for the violation hereof; and declaring an emergency.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. It shall be unlawful for any person to cut, break, dig up, damage in any manner undermine, tunnel or in any manner alter the surface of any street, alley, road or highway within the corporate limits of the City of Milwaukee or where both sides of the same are contiguous with real property within the corporate limits of the City of Milwaukee, without first making application to the City Engineer of the City of Milwaukee 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, alley, road or highway to be cut or tunneled under, or the surface of which is to be altered, the nature of the existing street surface or pavement involved, the purpose of the work, and the size and nature of the cut, tunnel or alteration, 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, and 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 be accompanied by or contain such maps, plans, information and stipulations as may be required by the City Engineer.

Section 3. Security. Before the issuance of any such permit the City Engineer shall require the applicant to file with him as security either:-

(a. A security bond in an amount to be fixed by the City Engineer, but not to exceed \$5,000 conditioned that the applicant will, immediately upon completion of the work, remove all surplus earth, rubbish or other material, replace the pavement, cut or undermined or otherwise altered in as good a condition as or better than it was before and keep the same in 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 cost of the pavement to be cut, tunneled or altered, together with the cost of reexcavating and filling with proper materials, 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 roads alleys and highways, cut tunneled or altered by any particular applicant for the period of one year in an amount to be fixed by the City Engineer, but not to exceed \$5,000. and subject to the same conditions as stated above with reference to bonds for particular cuts or alterations.

Provided, however, that in case of unimproved streets, no surety 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, tunnel or alteration is feasible and proper, and 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 issue a permit which shall designate; the name and address of the person to whom the permit is granted, the date of the issuance of the permit, the street to be cut, tunneled or altered, the nature of the street surface or pavement involved, the purpose of the work, the size and nature of the cut, excavation tunnel or alteration, the estimated cost of restoration, the nature and amount of the security deposited, the time in which such 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 interests.

Section 5. CONDUCT OF WORK. All work done under said permit shall be done in conformity with the provisions of this ordinance, the terms of the application and permit and under supervision and subject to the approval of the City Engineer. Upon completion of the work all surplus earth, rubbish and other materials 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. ADHERENCE TO AND EXHIBITION OF PERMIT. No work shall be undertaken other than that specified in the application and permit. Upon demand of the City Engineer, his associates, 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 work 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 give such other information as may be required by the City Engineer.

Section 8. BARRICADES AND SAFETY MEASURES. Whenever any person under authority of this ordinance or otherwise shall place any obstruction in any street, alley, road or highway, or make any excavation therein for any purpose whatsoever, or make any alteration thereto for any purpose whatsoever, it shall be the duty of such person to keep such obstruction, excavation or alteration properly safeguarded by substantial barricades and to display lighted red lanterns or other lights or flares from dusk to 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 such cuts, excavations or alterations 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 such permit for work has been granted shall be responsible for furnishing a night watchman for that purpose.

Section 9. LIABILITY FOR ACCIDENTS. Every person having occasion to place any obstruction in any street, road, alley or highway, or to make any excavation therein or alteration thereto, under the provisions of this ordinance, shall be responsible to any one for any injury by reason of the presence of such obstruction, excavation, or alteration 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, excavation or alteration 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, undermined or in anywise altered under the provisions of this ordinance, 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 THE 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, undermined or in any way altered, 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 said work 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 either by its employees or by persons operating under contract with the City, nor to cuts or excavations made by employees of the City Water Department nor by the 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 of all public utility corporations shall file prior notice and report to the City Engineer of all work to be done which otherwise would be subject to the provisions of this ordinance.

Section 13. PENALTIES. Any person violating any provision of this ordinance shall under conviction thereof, be punished by a fine of not to exceed \$100.00; and each day that such violation exists shall be deemed a separate violation hereof.

Section 14. That ordinance No. 504 be and the same is amended to comply with the provisions of this ordinance; and that ordinances No. 21 and 110 and any and all other ordinances in conflict herewith be and the same hereby are repealed in so far as they conflict herewith.

Section 15. In as much as the provisions of these ordinances are such as to effect the peace, health, safety and general welfare of the inhabitants of the City of Milwaukee, an emergency hereby is declared to exist and the provisions of this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed this 10th day of October, 1949.

Signed by the Mayor this 10th day of October, 1949.

(signed)
- Fred Sperr, Mayor

ATTEST:

(signed)
Ellen Martin, Recorder.