

## LEGISLATIVE DIGEST

### ORDINANCE NOS. 20-0020, 20-0021 AND 20.0022

#### AMENDING MUNICIPAL CODE CHAPTER 7.14, 7.40 AND 9.72 REGARDING EXCAVATIONS, TEMPORARY ENCHROACHMENT PERMITS AND STREET IMPROVEMENTS WITHIN THE PUBLIC RIGHTS-OF-WAY

New language: Bolded and Underscored Dark Blue;

~~Deleted Language: Red~~

**SECTION 1.** Subsection A of MBMC Section 7.16.060 pertaining to the City's requirement for surety bond and insurance policies, is hereby amended as follows:

"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) may be required by the City, 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 may ~~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."

**SECTION 2.** Subsection A of MBMC Section 7.16.070 pertaining to the City's requirement for cash deposits is hereby amended as follows:

- "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" may ~~shall~~ be made to the Administrative Authority for deposit with the City Treasurer in accordance with the adopted rate schedule of the Administrative Authority."

**SECTION 3.** MBMC Section 7.16.080 pertaining to the City's requirement for protective measures and routing of traffic is hereby amended as follows:

"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/~~her~~, if in his/~~her~~ 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.

**SECTION 4.** MBMC Section 7.16.100 pertaining to the City's requirement for protection of traffic is hereby amended as follows:

"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 ~~four feet one-half of the sidewalk~~ width shall be maintained along such sidewalk line."

**SECTION 5.** MBMC Section 7.16.110 pertaining to the City's requirement for relocation and protection of utilities is hereby amended as follows:

"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."

**SECTION 6.** MBMC Section 7.16.210 pertaining to restoration of surfaces is hereby amended to read as follows:

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. Where street excavation is performed on a designated minor or major arterial roadway, street resurfacing shall be required for the entire travel lane for any lane portion excavated.

**SECTION 7.** MBMC Section 7.40.040 pertaining to the City's right-of-way permit fees is hereby amended to read as follows:

"A permit fee and associated inspection fee as established by the Council under separate resolution shall be charged by the Administrative Authority for the issuance of a temporary encroachment permit. No refund shall be made on permit fees, and all monies collected shall revert to the City. ~~Accompanying the permit application to the Department of Public Works shall be:~~

~~A. A fee in the amount of \$5.00 for the handling and filing of such permit.~~

B. A deposit may be charged as established by the Council under separate resolution of \$200.00 to be used if the Director of Public Works or his agent find it necessary to install any type of structure or device to prevent or correct any adverse condition resulting from the building or completion of any construction, excavation or demolition, or to pay for any violations cited against said permittee by qualified city officers.

~~C. An inspection fee of \$20.00 for routine inspections by the Department of Public Works.~~

If the cost against the sum of this deposit depletes said deposit or exceeds it, then the permittee shall provide any additional funds required by the City.

Any part of the deposit made by the permittee which is not used shall be returned to the depositor upon written request within ninety (90) days after the completion of work under the permit.”

**SECTION 8.** MBMC Section 7.40.070 pertaining to the City’s requirements for reapplication for a permit is hereby amended to read as follows:

“Application for renewal must be made prior to the expiration date of the permit, and must be accompanied by a renewal fee as established by the Council under separate resolution ~~of \$5.00~~; otherwise a new permit must be filed in accordance with the previous Section and a new inspection fee, which shall be added to the preliminary deposit, must be paid.  
Manhattan Beach Municipal Code”

**SECTION 9.** MBMC Section 9.72.010 pertaining to the City’s requirements for driveways, sidewalks, curbs, gutters and paving is hereby amended as follows:

“No building or structure shall be constructed or erected, nor shall any improvements or replacements be made upon any property abutting a public right of way which would result in the alteration or addition of more than fifty (50%) percent of the value of the existing structure, as determined by Section ~~202303 (A)~~ of the ~~California Uniform~~ Building Code and Section R202 of the California Residential Code, unless the plans and specifications of all driveways, driveway aprons, sidewalks, curbs, gutters, curb ramps and street paving to be built in the public right of way abutting such lot or parcel of property are filed with and approved by the Department of Public Works, and unless all necessary driveways, driveway aprons, sidewalks, curbs, gutters, curb ramps and street paving are installed concurrently with any construction, erection, addition or alteration upon the concerned lot or parcel of property consistent with the current City or regulatory standards such as Americans with Disabilities Act (ADA), etc. This may require removal of any and all existing infrastructure to ensure compliance. Any work in the public right of way requires a separate permit pursuant to requirements as set forth in Chapter 7.16 of this Code and shall be constructed to current City codes and standards. ~~;~~ ~~provided, however, such installations or improvements shall not be required to be made unless more than fifty (50%) percent of the total front footage of a city block is occupied by improvements constructed to appropriate standards as determined by the Department of Public Works, and which have been installed within the public right of way abutting lots or parcels of property along portions of said lots, and which have been completed prior to the commencement date of the construction, erection, addition, or alteration of a building or structure upon the herein above stated lot or parcel of property.~~

In addition to any regular or special inspection which may occur, the City’s Public Works Department shall inspect the condition of the public rights-of-way inclusive of any new or existing grading, landscaping, pedestrian pathway, sidewalk, driveway, driveway apron, concrete curbs, gutter, curb ramps and pavement condition abutting or fronting on a particular piece of property of any building or facility prior to issuance of an occupancy permit or close-out of a building permit that is valued in excess of \$5,000 pertaining to occupancy or construction on that property. Any non-code compliant matters or conditions of disrepair observed may be required to be rectified as directed by the Department of Public Works Director. All such permits, prior to final issuance, shall require notation that a Public Works Department inspection was completed and that either the conditions within the public rights of way is not in need of repair or that repair has been

completed or that repair has been bonded to the satisfaction of the Public Works Department Director.”

**SECTION 10.** MBMC Section 9.72.020 pertaining to the City’s definitions and applicability for street improvements is hereby amended as follows:

“For purposes of this chapter, a block shall be defined as one side of that segment of a public street or alley which lies between the centerline intersection of a public street and the centerline intersection of the public street nearest thereto. In the event an intersecting street is not continuous through the subject street, the limit of the block on the subject street shall be established by the extension of the centerline of the non-continuous intersecting street. The length of the block shall be the total lineal footage, measured along the property lines common to both the public street or alley and the adjacent properties, on one side of the public street or alley within the subject block.

~~The provisions of Section 9.72.010 of this chapter shall apply where more than fifty (50%) percent of the length of the block containing the building site is so improved.”~~

**SECTION 11.** MBMC Section 9.72.040 pertaining to the City’s time allotted for completion of improvements is hereby amended as follows:

“In lieu of construction as hereinabove referred to, the construction of such driveways, driveway aprons, sidewalks, curbs, gutters, curb ramps and street paving may be made at any time prior to the final inspection by the Building Official for such construction, erection, addition or alteration provided there is contained on any building permit issued for such construction, erection, addition or alteration a statement approved by the Department of Public Works that the installation of such required improvement shall be a condition precedent to final inspection by the Building Official. Provided, however, that the required improvement may be completed within a reasonable period of time, after occupancy, as determined by the Building Official, subject to the owner, contractor or tenant affected thereby posting a bond with the City in the amount to be determined as the cost estimate of the subject public right of way improvement and the cost amount as approved by the Public Works Director ~~of Five Hundred and no/100ths (\$500.00) Dollars~~ to insure the specific performance of said required improvement.”

**SECTION 12.** MBMC Section 9.72.050 pertaining to modifications to the City’s requirements for street improvements is hereby amended as follows:

“When practical difficulties, unreasonable hardships, or results inconsistent with the general purposes of this chapter occur by reason of the strict interpretation and application of any of the provisions of this chapter, any owner, contractor or tenant affected thereby may file an application for relief from the provisions of Section 9.72.010 of this chapter, pursuant to Section 7.36.080 ~~10-3.2103~~ of this Code.”