

ORDINANCE NO. 20-0020

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING SECTIONS 7.16.060, 7.16.070, 7.16.080,
7.16.100, 7.16.110 AND 7.16.210 OF MUNICIPAL CODE
CHAPTER 7.16 OF TITLE 7 REGARDING EXCAVATIONS -
STREETS, ALLEYS, SIDEWALKS AND PUBLIC PLACES

THE MANHATTAN BEACH CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 7.16.060 - Surety bond and insurance policies, subsection A is hereby amended to read 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 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. 7.16.070 - Cash deposits, subsection A is hereby amended to read 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 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. 7.16.080 - Protective measures and routing of traffic is hereby amended to read 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 electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day.

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 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. 7.16.100 - Protection of traffic is hereby amended to read 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 in width shall be maintained along such sidewalk line.

SECTION 5. 7.16.110 - Relocation and protection of utilities is hereby amended to read 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 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. 7.16.210 - 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. CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. The City Council determines that this Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, et seq., the "CEQA Guidelines"). It can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the regulations established hereby, may have a significant effect on the environment, and the action taken herein is not a "project" within the meaning of CEQA.

SECTION 8. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency, including grammatical and minor edits as may be needed.

SECTION 9. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.

SECTION 10. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

ADOPTED _____, 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney