

ORDINANCE NO. 085-094

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 16, DIVISION 2 CONSTRUCTION, OF THE CODE OF ORDINANCES OF THE TOWN OF ADDISON, TEXAS, REGULATING THE OPENING AND EXCAVATING OF STREETS, ALLEYS, SIDEWALKS, AND OTHER PUBLIC GROUNDS; REQUIRING A PERMIT THEREFOR AND PAYMENT OF A FEE; IMPOSING REQUIREMENTS FOR THE PROTECTION OF LIFE AND PROPERTY IN CONNECTION WITH EXCAVATION WORK, INCLUDING TRAFFIC AND PEDESTRIAN SAFEGUARDS AND THE PROTECTION OF UTILITIES AND OTHER PROPERTY; REGULATING THE BACK-FILLING AND RESURFACING OF EXCAVATIONS; PRESCRIBING SURETY BOND AND INSURANCE REQUIREMENTS; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That the Code of Ordinances of the Town of Addison, Texas, is hereby amended to amend Chapter 16, Division 2, to read as follows:

DIVISION 2 CONSTRUCTION

Sec. 16-55. Short Title. This Ordinance shall be known and may be cited as the "Street Excavation Ordinance of the Town of Addison."

Sec. 16-56. Definitions. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "Applicant" is any person making written application to the Director of Streets for an excavation permit hereunder.

B. "City" is the Town of Addison

C. "City Council" or "Council" is the City Council of the Town of Addison.

D. "Director of Streets" is the Director of Streets of the Town of Addison or his designee.

E. "Excavation Work" is the excavation and other work permitted under an excavation permit and required to be performed under this Ordinance.

F. "Permittee" is any person who has been granted and has in full force and effect an excavation permit issued hereunder.

G. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

H. "Street" is any street, highway, sidewalk, alley, avenue, or other public way or public grounds in the City.

I. "Working Day" is any Monday, Tuesday, Wednesday, Thursday or Friday which is not a holiday observed by the City.

Sec. 16-57. Excavation Permit. It shall be unlawful for any person to dig up, break, excavate, jack, bore, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street any earth or other excavated material or construction material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefor from the Director of Streets.

Sec. 16-58. Application. No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the Director of Streets. The written application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and date of completion of the excavation, and other data as may reasonably be required by the Director of Streets. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to said excavation and of the proposed excavated surfaces, the location of the excavation work, and such other information as may be prescribed by the Director of Streets. No application shall be

accepted by the Director of Streets more than ten (10) working days prior to date of commencement.

Sec. 16-59. Excavation Permit Fees. A permit fee shall be charged by the Director of Streets for the issuance of an excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The excavation permit fee shall be in an amount of Ten and no/100 Dollars (\$10.00).

Sec. 16-60. Revocation of Permit. The Director of Streets may revoke the permit issued hereunder upon the following grounds:

1. failure of Permittee to start excavation work on the commission date provided for in the application or to diligently do such work after beginning.
2. violation any terms or provisions of this Ordinance.
3. giving false information upon the application.
4. changing of subcontractors responsible for the excavation work.

Sec. 16-61. Excavation Placard. The Director of Streets shall provide each permittee at the time a permit is issued hereunder a suitable placard plainly written or printed in English letters at least one inch high with the following notice: "Town of Addison Permit No. _____ Expires _____" and in the first blank space there shall be inserted the number

of said permit and after work "expires" shall be stated the date when said permit expires. It shall be the duty of any permittee hereunder to keep the placard posted in a conspicuous place at the site of the excavation work. It shall be unlawful for any person to exhibit such placard at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit.

Sec. 16-62. Surety Bond. Before an excavation permit as herein provided is issued, the applicant shall deposit with the Director of Streets a surety bond in the amount of \$25,000.00 payable to the City. The Director of Streets shall have the right to reduce the amount of the bond, if he determines in his sole discretion that the proscribed amount would be unreasonable in the light of the scope and cost of the work.

The required surety bond must be:

- A. With good and sufficient surety;
- B. By a surety company authorized to transact business in the state;
- C. Satisfactory to the City Attorney in form and substance;
- D. Conditioned upon the permittee's compliance with this Ordinance and to secure and hold 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 permit or for which the City, the

City Council or any city officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition as near as may be to its original condition, and to the satisfaction of the Director of Streets, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of twelve (12) months after said work shall have been done and accepted by City, usual wear and tear excepted, as it was in before said work shall have been done. Any settlement or upheaval of the surface within said twelve (12) month period shall be deemed conclusive evidence of defective back-filling by the permittee. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the City if such repairs should prove defective. Any owner of real estate repairing or engaging another to repair his own sidewalk shall not be required to give such bond. Recovery on 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 work for which it is given. 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 work in streets by the principal in such bond during the term of one year from said date.

Sec. 16-63. Routing of Traffic. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the Director of Streets may permit the closing of streets to all traffic for a period of time prescribed by him if in his opinion it is necessary. No interference with traffic flow on city streets shall be permitted during the hours of 6:30 a.m. to 9:30 a.m. and 3:30 p.m. to 6:30 p.m., Mondays through Fridays. Emergency closures during these hours shall be with the approval of the Director of Streets. The permittee shall route and control traffic including its own vehicles as directed by the Police Department.

The following steps shall be taken before any street may be closed or restricted to traffic:

A. The permittee must receive the approval of the Director of Streets and the Police Department therefor;

B. The permittee must notify the Chief of the Fire Department of any street so closed;

C. Upon completion of construction work, the permittee shall notify the Director of Streets, Fire Department and the Police Department before traffic is moved back to its normal flow so that any necessary adjustments may be made;

D. Where flagmen are deemed necessary by the Director of Streets, they shall be furnished by the permittee at its own expense. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the Director of Streets will designate detours. The City shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee, but in case there are no existing highways, the permittee shall construct all detours at its expense and in conformity with the specifications of the Director of Streets. The permittee will be responsible for any unnecessary damage as may be determined in the Director of Street's sole discretion caused to any highways by the operation of its equipment.

Sec. 16-64. Clearance for Fire Equipment. The excavation

work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants.

Passageways leading to fire escapes or fire-fighting equipment shall be kept free of excavated material or other obstructions.

Sec. 16-65. Protection of Traffic. The permittee shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon streets as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across streets under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of plank, timbers and blocking of adequate size to accommodate vehicular traffic safely. Decking shall be not less than four inches thick and shall be securely fastened together with heavy wire and staples. Pedestrian crossings shall consist of planking three inches thick, 12 inches wide and of adequate length, together with necessary blocking. The walk shall be not less than three feet in width and shall be provided with a railing as required by the Director of Streets.

Sec. 16-66. Barricades. A permittee shall be responsible for the placement of barricades, warning signals and signal lights sufficient to warn the public of hazard and which are in compliance with the Town of Addison ordinances concerning bar-

ricading of public streets.

Sec. 16-67. Removal and Protection of Utilities. The permittee shall not interfere with any existing utility without the written consent of the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility 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 utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. 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. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them, and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

Sec. 16-68. Protection of Adjoining Property. The permit-

tee 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 protective 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 Director of Streets 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, the sod shall be carefully cut and rolled and replaced with live sod after ditches have been back filled as required in this Ordinance. 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 streets without first having notified and obtained the consent of the appropriate City department or City official having control of

such property.

Sec. 16-69. Sidewalk Excavations. Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that foot passengers can pass over safely at all times.

Sec. 16-70. Protective Measures. The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the City streets or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight, there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets suitable and sufficient lights which shall be kept burning throughout the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided there for the protection of the public.

Sec. 16-71. Attractive Nuisance. It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and hazardous to their safety or health.

Sec. 16-72. Care of Excavated Material. All material excavated from or other materials stored next to 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 Director of Streets 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 back-filling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

Sec. 16-73. Damage to Existing Improvements. All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repair shall conform with the requirements of any applicable code or ordinance. If upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the Director of Streets shall have the authority to cause said necessary labor and materials to be furnished by the City and the cost shall be charged against the permittee, and the permittee shall also be liable on his or its bond therefor.

Sec. 16-74. Property Lines and Easements. Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit and it shall be the permittee's responsibility to confine excavation work within these limits.

Sec. 16-75. Clean-up. As the excavation work progresses, all streets and private properties 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 Director of Streets. From time to time as may be ordered by the Director of Streets 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 24 hours after having been notified to do so in writing by the Director of Streets, said work may be done by the Director of Streets 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.

Sec. 16-76. Protection of Water Courses. The permittee shall provide for the flow of all water courses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provi-

sions for them as the Director of Streets may direct. The permittee shall not obstruct the gutter of any street but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision 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.

Sec. 16-77. Breaking Through Pavement. Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four feet or over in depth, the pavement and the base shall be removed to at least twelve inches beyond the outer limits of the sub-grade that is to be disturbed in order to prevent settlement, and a twelve-inch shoulder of undisturbed material shall be provided on each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges for the full depth of the pavement. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.

Sec. 16-78. Jacking, Boring or Tunneling.

A. Description. This specification shall govern for the provision of the required opening for the installation

of conduits by the methods of jacking, boring, or tunneling as shown on the plans and in conformity with this specification.

B. Construction Requirements. Where encasement or carrier pipe is required to be installed under railroad embankments or under highways, streets, or other facilities by jacking, boring or tunneling methods, construction shall be made in a manner that will not interfere with the operation of the railroad, highway or other facility, and will not weaken or damage any embankment or structure.

The drilling or pilot holes for the alignment of pipe prior to its installation by jacking, boring or tunneling will be a requirement.

The contractor shall take the proper precautions to avoid excavating earth or rock or shattering rock beyond the limits of excavation needed to install the conduit.

C. Construction by Jacking. If the grade of the pipe at the jacking end is below the ground surface, suitable pits or trenches shall be excavated for the purpose of conducting the jacking operations and for placing end joints of the pipe. This excavation shall not be carried to a greater depth than is required for placing of the guide and jacking timbers and no nearer the roadbed than two (2) feet.

At the other end of the pipe, an approach trench shall be excavated accurately to grade. All open trenches and

pits shall be braced and shored in such a manner as will adequately prevent caving or sliding of the walls into the open trench or pit.

Heavy duty jacks suitable for forcing the pipe through the embankment shall be provided. In operating jacks, even pressure shall be applied to all jacks used. A suitable jacking head not less than six (6) inches larger than the outside diameter of the pipe, usually of timber, and suitable bracing between jacks and jacking head shall be provided so that pressure will be applied to the pipe uniformly around the ring of the pipe. The jacking head shall be of such weight and dimensions that it will not bend or deflect when full pressure is applied at the jack. The jacking head shall be provided with an opening for the removal of excavated material as the jacking proceeds. A suitable jacking frame or backstop shall be provided. The pipe to be jacked shall be set on guides which are straight and securely braced together in such a manner to support the section of the pipe and to direct it in the proper line and grade. All timber and other materials used in the construction of the jacking assembly will be of such quality and dimensions that they will withstand all stresses to which they are subjected in such a manner as to insure even pressures on the pipe during jacking operations. The whole jacking assembly shall be placed so as to line up with the

direction and grade of the pipe.

As the jacking proceeds, the embankment material shall be excavated slightly in such a manner to avoid making the excavation larger than the outside diameter of the pipe, with the excavated material being removed through the pipe. The excavation for the underside of the pipe, for at least one-third ($1/3$) of the circumference of the pipe, shall conform to the contour and grade of the pipe. The excavation for the top half of the pipe shall conform closely to the outside diameter of the pipe and a clearance greater than two (2) inches will not be permitted. All voids between the pipe and the earth will be filled with grout proportioned 1:7 minimum mix grout with five percent (5%) to forty percent (40%) air entrainment. Grout holes may be provided in the pipe or grouting may be made through drill holes from the ground surface if practical. The grouting shall follow immediately upon completion of the jacking operation.

All carrier pipe installed by jacking shall be supported by quarter point cradle of 2000 PSI concrete across the jacking pit and to the first joint in the ditch section on each end.

The distance that the excavation shall be extended beyond the end of the pipe depends on the character of the material, but it shall not exceed two (2) feet in any case. The pipe, preferably, shall be jacked from the low or

downstream end.

When the jacking of pipe is once begun, the operation shall be carried on without interruption, insofar as practicable to prevent the pipe from becoming firmly set in the embankment.

Any pipe damaged in jacking operations shall be repaired or removed and replaced by the contractor at his entire expense.

The pits or trenches excavated to facilitate jacking operation shall be filled immediately after the jacking of the pipe has been completed unless an encasement only has been installed; in which case, the trenches and pits shall be left open until the carrier pipe has been laid through and manholes have been built if required. The pits or trenches will then be backfilled in accordance with the location and conditions as are covered elsewhere in these specifications.

If a carrier pipe is laid through an encasement pipe, the bedding of crushed rock, concrete, grout or granular material, if any, will be considered a part of the jacking operation.

D. Construction by Boring. The hole shall be bored mechanically with a suitable boring assembly designed to produce a smooth, straight shaft and so operated that the completed shaft will be at the established line and grade.

The size of the bored hole shall be of such diameter to provide ample clearance for bells or other joints. All carrier pipe installed by boring shall be supported by quarter point cradle of 2000 PSI concrete across the boring pit and to the first joint in the ditch section on each end.

All voids will be grouted with a 1:7 minimum mix with five percent (5%) to forty percent (40%) air entrainment, and will be considered a part of the unit price of the boring operation.

E. Construction by Tunneling. The tunnel shall be excavated in such a manner and to such dimensions which will permit placing of the proper supports necessary to protect the excavation.

All equipment operated in the tunnel shall be powered by either air or electricity. No equipment will be permitted in the tunnel that uses a petroleum product for fuel. Electric lights shall be used for illumination of the tunnel construction, for illumination of completed portions of the tunnel used for passage, and wherever lighting is needed for inspection of the work. Sufficient number of lamps shall be used to properly illuminate the work, and all wiring for electric power and lights shall be installed and maintained in a safe and secure manner in accordance with the current Electrical Code of the City. The contractor shall maintain the tunnel air in a condition suitable for

the health of the workmen and sufficiently clear for surveying operations. A sufficient supply of fresh air shall be provided to make for the quick and complete removal of gases and dust resulting from blasing or other tunnel operations. Except when unnecessary due to natural ventilation, artificial ventilation shall be maintained in the tunnel by ventilating plants of ample capacity operated when needed to meet the preceding requirements.

If required by the plans or if required for safety, suitable steel or timber sheeting shoring and bracing shall be used to support the sides and roof of the excavation. Supports may be left in place provided that they clear the encasement or carrier pipe. Nothing contained herein shall prevent the contractor from placing such temporary or permanent supports as he shall deem necessary, nor shall it be construed as relieving the contractor from his full responsibility for the safety of the work, and for all damages to persons and property.

If the tunnel is to be lined with concrete as a monolithic structure, then the overbreak, if any, or voids will be poured with concrete of the required strength as detailed on plan. If the strength is not indicated, the 28-day strength will be a minimum of 3000 PSI.

Unless otherwise indicated or specified, the entire void between the outside of the pipe and the tunnel walls or

the inside face of the tunnel lining shall be backfilled with concrete having a minimum compressive strength of 2000 pounds per square inch at 28 days or 1:7 minimum mix grout with five percent (5%) to forty percent (40%) air entrainment. No concrete or grout shall be placed around the pipe unless the permanent sheeting, bottom, sides and roof of the tunnel are in a condition satisfactory to the Director of Streets. The minimum thickness of concrete or grout backfill shall be maintained throughout. Concrete required for backfill in excess of the minimum dimensions shown on plan will be at the entire expense of the contractor.

Sec. 16-79. Back-filing. Unless waived by the Director of Streets, back-filling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a minimum dry density of 95% of standard proctor density, within three percent (3%) of optimum moisture. Compacting shall be done by mechanical tampers or vibrators by rolling in layers, as required by the soil in question and sound engineering practices generally recognized in the construction industry. The Director of Streets shall have the right to require testing to determine the compaction, and such testing shall be at the expense of permittee.

Sec. 16-80. Dry Back-Filling. Back-filling up to the first 12 inches above the top of the utility pipes or similar installations shall be done in four inch to six inch layers. Each layer

is to be tamped by manual or mechanical means. Layers that are hand tamped shall not exceed four inches in thickness. Layers that are power tamped shall not exceed six inches in thickness. The same requirements shall apply to the remainder of the back-filling if tamping is the method used for back-filling. Back-filling of all pipes of over 24 inches in diameter shall be carried up to the spring line of the pipe in three-inch layers, with each layer moistened and thoroughly tamped with suitable mechanical equipment. The back-fill around all pipes 24 inches or less in diameter shall be tamped as specified above to a depth of 12 inches above the top of the pipe before any additional back-filling is placed thereon.

Sec. 16-81. Back-Fill Material. Whenever any excavation for the laying of pipe is made through rock, the pipe shall be laid six inches above the rock bottom of the trench and the space under, around and six inches above the pipe shall be back-filled with clean river sand, non-corrosive soil or one-quarter inch minus gravel or in accordance with manufacturer's specification if approved in writing by the Director of Streets. Broken pavement, large stones, and debris shall not be used in the back-fill.

Sec. 16-82. Back-Filling of the Surface. Back-filling shall be completed by placing the back-fill material well up over the top of the trench. For dry back-filling, the material shall be compacted with a roller of an approved type or with the rear

of a truck carrying at least five tons until the surface is unyielding. The surface shall then be graded as required.

Sec. 16-83. Restoration of Surface. The permittee shall restore the surface of all streets, broken into or damaged as a result of the excavation work, to its original condition in accordance with the specifications of the Director of Streets. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Except when the pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be made with suitable material well tamped into place and this fill shall be topped with a minimum thickness of bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe traveling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the Director of Streets.

Permanent restoration of the street shall be made by the permittee in strict accordance with the specifications prescribed by the Director of Streets to restore the street to its original and proper condition, or as near as may be.

Acceptance or approval of any excavation work by the

Director of Streets shall not prevent the City from asserting a claim against the permittee and his or its surety under the surety bond required hereunder for incomplete or defective work if discovered within twelve (12) months from the completion of the excavation work. The Director of Streets' presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.

Sec. 16-84. City's Right to Restore Surface. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, the Director of Streets, if he deems it advisable, shall have the right to do all work as necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof plus 25% of such cost for general overhead and administrative expenses. The City shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall apply in payment of the amount due it any funds of the permittee deposited as herein provided, and the City shall also enforce its rights under the permittee's surety bond provided pursuant to this Ordinance.

It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for one year after restoring it to its

original condition.

Sec. 16-85. Trenches in Pipe Laying. Except by special permission from the Director of Streets, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 500 feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work as prescribed by the Director of Streets. No timber bracing, lagging, sheathing or other lumber shall be left in any trench.

Sec. 16-86. Prompt Completion of Work. 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, as soon as practicable and in any event not later than the date specified in the excavation permit therefor.

Sec. 16-87. Urgent Work. If in his judgment, 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 Director of Streets with the consent of the City Manager, if the excavation is within 300 feet of a residence, 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 24 hours a day to the end that such excavation work may be completed as soon as possible.

Sec. 16-88. Emergency Action. In the event of any emergency in which a sewer or water main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the Director of Streets' office is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

Sec. 16-89. Noise, Dust and Debris. Each permittee shall conduct and carry out the 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 during the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written per-

mission of the City Manager, 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.

Sec. 16-90. Preservation of Monuments. The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until approved to do so by the Director of Streets.

Sec. 16-90a. Inspections. The Director of Streets shall make such inspections as are reasonably necessary in the enforcement of this Ordinance. The Director of Streets 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 Ordinance.

Sec. 16-90b. Maintain Drawings. Users of sub-surface street space shall maintain accurate drawings and plans showing the location and character of all underground structures.

Sec. 16-90c. Applicability of Ordinance to City Work and Utility Companies. The provisions of this Ordinance shall not be applicable to any excavation work under the direction of a competent city authority by employees of the City. Any contractor of the City performing work for or in behalf of the City necessitating openings or excavations in streets shall comply with this Ordinance unless the Director of Streets shall, in writing, waive compliance of the requirements of this Ordinance upon the terms

and conditions he deems necessary. All provisions of this Ordinance shall be applicable to public utility companies and their contractors, except the provision which requires the payment of a permit fee and the provision which requires a surety bond provided such utility company has agreed to indemnify the City against damage and losses covered by the bond.

Sec. 16-90d. Insurance. A permittee, prior to the commencement of excavation work hereunder, shall furnish to the Director of Streets satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than \$100,000 for any one person and \$300,000 for any one accident and property damage insurance of not less than \$50,000 duly issued by an insurance company authorized to do business in this State. However, if the Director of Streets determines that the cost of the excavation to be performed by permittee exceeds \$50,000, then the Director of Streets, at his discretion, may require the permittee to maintain in force during the performance of the excavation work and the period of excavation permit public insurance not less than \$1,000,000 for any one person and \$3,000,000 for any one accident and property damage insurance not less than \$500,000, duly executed by an insurance company authorized to do business in this State.

Sec. 16-90e. Liability of City. This Ordinance shall not

be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation 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 work.

Sec. 16-90f. Unlawful Activities. It shall be unlawful for any person to injure, deface, destroy unlawfully, willfully and maliciously, any pipes, cables, lines, belonging to the Town of Addison or public utilities, including, but not limited to, gas, electric, telephone and cable T.V.

SECTION 2. Any person, firm or corporation violating any of the provisions of this Ordinance, shall upon commission be deemed guilty of a misdemeanor, and shall be subject to a fine not to exceed the sum of Two Hundred and no/100 Dollars (\$200.00) for each offense, and each day such violation continues shall constitute a separate offense.

SECTION 3. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That should any paragraph, sentence, subdivi-

sion, clause, phrase or section of this ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

SECTION 5. The fact that the present Code does not provide for the regulation of opening and excavating streets, alleys, sidewalks, and other public ground and is therefore inadequate to properly safeguard the general public, health and safety, creates an emergency and an imperative public necessity, and the ordinance shall take effect and be in force from and after its adoption.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this the 26 day of November, 1985.


MAYOR

ATTEST:


CITY SECRETARY

Pub.
12/11/83