

CITY ORDINANCE 2005 - _____

AMENDING CHAPTER 604

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHLAND CENTER REGULATING EXCAVATIONS OR OPENINGS IN ANY STREET, HIGHWAY, BRIDGES, ALLEY, OR OTHER PUBLIC WAY OR ~~MAINTENANCE OF SIDEWALK~~ WITHIN THE CITY OF RICHLAND CENTER.

604.01 PERMIT REQUIRED. Any person, firm, corporation, utility, or other entity ("Permittee") who wishes to excavate or place an obstruction within any City highway shall first obtain a permit ("Encroachment") from the City Administrator/Utility Manager or an authorized representative. For the purpose of this section, "street", "highway", "bridges", "alley", means all public ways and thoroughfares and includes the entire width between the boundaries lines of every public way open to the use of the public as a matter of privilege for the purposes of vehicular travel.

~~No person shall make or cause to be made any excavation or opening in any street, alley, highway, sidewalk or other public way within the City of Richland Center without first obtaining a permit therefore from the Board of Public Works.~~

604.02 FEE. The fee for a street opening permit shall be established by City Resolution \$2.00 and shall be paid to the City Treasurer who shall issue a his receipt therefore.

604.03 The issuance and acceptance of the permit shall obligate the Permittee to the following conditions:

- (a) A cash bond or irrevocable letter of credit shall be established by City Resolution shall be filed with the Clerk/Treasurer. Such cash bond or letter of credit shall be held by the City to guarantee the conditions of the permit for a period of two (2) years from the date of the issuance of the permit.
- (b) The Permittee agrees shall agree, in writing, to indemnify and hold harmless the City, its employees and its agents, from any cost, claim, suit, liability and/or award which might come, be brought, or be assessed, because of the issuance or exercise of this permit, or because of any adverse effect upon any person or property which is attributed to the partially or entirety completed works of the Permittee.
- (c) The City of Richland Center, through the City Administrator/Utility Manager or an authorized representative, shall have complete authority at all times over construction or repair operations which may have an influence on the highway.
- (d) The permitted facilities shall, if necessary, be altered at the expense of the Permittee to permit alteration, improvement, or maintenance of the highway as may hereafter be ordered. The entire cost of constructing and maintaining the permitted work shall be the obligation of the Permittee unless a contract for such costs has been executed between the Permittee and the City.
- (e) This permit authorizes only the described works of, and for, the Permittee indicated on the face of the permit. It does not grant

authority for the facilities of any other person or entity, either by present installation or future installation.

- (f) This permit does not transfer any land, or give, grant or convey any land right nor easement.
- (g) No part of the permitted work operations shall be commenced until warning signs, devices and methods to protect the public are established, in place and fully functional. Warning signs and devices shall conform to the appropriate sizes, design and arrangements specified within the most current "Wisconsin Department of Transportation's Manual on Uniform Traffic Control Devices." It shall be the responsibility of the Permittee to provide and maintain at least the quantity of signs and devices therein described, but to also supplement those with such additional signs, devices and flagmen as are necessary to functionally protect persons and property from injury or damage at all times and under all conditions, including changed or changing conditions. The Permittee shall assure all traffic control facilities are well maintained and functional until all operations related to the permitted work are completed.
- (h) Issuance of this permit does not constitute authority for any interference with traffic. A minimum of one lane of traffic shall be open at all times. Whenever the contractor's operations obstruct or endanger a traffic lane and no marked detour has been provided, the contractor shall furnish a flagman to direct traffic through or around the congested area. The City shall have the right to require additional flagmen as it shall deem necessary.
- (i) Vehicles, equipment, and materials shall not be stored on the live lanes of the highway at any time. No vehicles or supplies shall be stored on the shoulder areas directly opposite the area of current operation. The Permittee shall regulate equipment, material, and vehicles to assure consistently safe conditions. Any material or equipment left on the shoulder areas overnight shall be properly marked with standard flashers.
- (j) It shall be the responsibility of the Permittee to determine the location of, and protect or cause to be protected from any damage, any facilities already in place in the area to be influenced by the permitted work. All notification of others is likewise the responsibility of the Permittee.
- (k) The Permittee shall be responsible for perpetuating all existing section corner markers which might be affected by the work authorized by this permit. The County Surveyor shall be notified prior to any section corner monument being disturbed or removed.
- (l) All disturbed areas shall be returned to their present condition or better, subject to the satisfaction of the City Administrator/Utility Manager or an authorized representative. Access to all private drives and public street intersections shall be maintained, and all disturbed areas shall be repaired with like material prior to the work authorized by this permit.
- (m) When restoration is not accomplished voluntarily and without delay, the City may issue a notice setting forth a final date by which restoration shall be completed. If the Permittee fails to satisfactorily complete all restoration within the time thus established, the City may arrange directly for all needful restorations, and all costs associated with such

restorations and the arrangements therefore shall be a cost obligation of the Permittee, and may be charged against the cash bond or letter of credit. In the event the cash bond or letter of credit is insufficient for such purposes, the Permittee shall be liable to the City for the excess cost over the amount of the cash bond or letter of credit.

- (n) Any damage or maintenance due to settlement of any other causes occurring within the highway right-of-way, as a result of the issuing or exercising of this permit, must be corrected by the Permittee, or his agent, successors or assigns, in the time and manner designated by the City Public Works Department or an authorized representative, for a period of 2 years from the date of the issuance of this permit.
- (o) The Permittee shall provide the supervisor of the permitted work with a copy of this permit and is responsible to assure the latter's familiarity with all details and requirements thereof. A copy of this approval, along with any plans and special provisions, shall be available on the job site. The Permittee is the responsible party for all work permitted under this permit and any complaints or requirements for correction will be taken up with the Permittee directly. The Permittee shall be responsible to the City for any failure to comply with any part of the permit.
- (p) Upon completion of the work the Permittee shall file a written notice with the City Administrator/Utility Manager or an authorized representative.

~~604.03 BOND. Before a permit for excavating or opening any street or public way may be issued, the applicant must execute and deposit with the City Clerk an Indemnity Bond approved by the Common Council in the sum of \$3,000.00 conditioned that the applicant will pay the City who will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any openings he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Board of Public Works for a period of one year. Such bond shall also guarantee that the City shall make the street repair and that the person opening the street will pay all costs of making such repair and of maintaining the same for one year. Such bond shall be further conditioned that he will observe the provisions of all State Laws, ordinances, rules, and regulations governing the issuance of permits under this section. Such bonds may be filed individually for each excavation, or an annual bond may be given covering all excavation work done by the principal for one year beginning January 1st. The person or contractor performing the excavation and opening work shall be responsible for the furnishing of the bond and for the payment to the City for their work in connection with the requirements set forth herein. Nothing contained herein shall relieve the contractor of the responsibility of notifying the City at least 24 hours in advance of the time the street excavation and opening shall be commenced and of notifying the City when he wants the street surfacing replaced or restored and of the execution of the work by the City. However, the Board of Public Works may order street surfacing repair performed at such time as they may deem proper, at the contractor's expense.~~

604.04 INSURANCE; SAVE HARMLESS AGREEMENT. (1) Prior to commencement of excavation work, a permittee must furnish the **City Administrator/Utility Manager or an authorized representative** ~~Board of Public Works~~ satisfactory written evidence that he has in force and will maintain during the life of the permit and the period of excavation public liability insurance of permit and the period of excavation public liability insurance of not less than \$100,000.00 for one person, \$300,000.00 for one accident, and property damage insurance of not less than \$50,000.00.

(2) Prior to the commencement of any excavation work, a permittee shall enter into an agreement in writing with the City to hold the City harmless from any and all claims and damages, from an and all causes and of any nature whatever in connection with his work or any part thereof, during the construction and until the same has been completed and all repairs completed and approved by the City, and he shall pay all losses, damages or claims recovered that the City may be liable for, and save the City harmless in all things, from any accident or casualty, damages, losses or claims which may happen or arise by reason of any failure, neglect, or refusal on his part or that of any servant or agent to prevent the same and such permitted shall further agree to comply with any of the ordinances of the City of Richland Center and the statutes of the State of Wisconsin ~~and the requirements of the Department of Industry, Labor, and Human Relations of the State of Wisconsin,~~ for the protection of the public. The permittee must also protect and hold the City harmless against any and all claims or fees for any patented article or arrangement that may be used in connection with the work.

~~(3) The permittee shall furnish a certificate of public liability insurance covering both persons and property with limits of coverage which, in the opinion of the City, shall be adequate considering the extent of and the hazards to be encountered in the execution of the work. This provision shall also apply to the subcontractors. The minimum limits of such liability insurance shall be as set forth above. Such liability policy shall contain a provision or endorsement covering any contingent liability of the City. The permittee and any of his contractors or subcontractors shall be named jointly with the City in all such policies and said policies shall be open to inspection by the City. If any extended coverage, or other special insurance not herein provided for, is required by the permittee, he shall provide the same at his expense, and shall furnish the City evidence of such prior to commencement of the work.~~

604.05 REGULATIONS GOVERNING STREET AND SIDEWALK OPENINGS. (1) No opening in the streets ~~or sidewalks~~ for any purpose shall be permitted when the ground is frozen, except where necessary as determined by the **City Administrator/Utility Manager or an authorized representative.** ~~Board of Public Works.~~

(2) In opening any street or other public way, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing materials and together with the excavated material from trenches shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.

(3) Every person shall enclose with sufficient barriers each opening which they may make in the streets or public ways of the City. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by they permittee, his agents, or employees. Red lights shall be kept burning from sunset to sunrise, one red light to be placed at each end of the opening in the street or way and other lights sufficient in number and properly spaced to give adequate warning. Except by special permission from the **City Administrator/Utility Manager or an authorized representative** ~~Board of Public Works~~, 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. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles, or property of any kind.

(4) In opening any street or sidewalk, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material

which in the opinion of the **City Administrator/Utility Manager or an authorized representative** ~~Board of Public Works~~ is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street or sidewalk in perfect repair, the same to be so maintained for a period of one year. In refilling the opening, the earth must be puddled or laid in layers not more than 6 inches in depth and each layer rimmed, tamped, or flushed to prevent after-settling. When the side of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in a ~~an~~ trench. The City may in any case elect to have the City make the pavement repair in lieu of the permittee, in which case the costs for pavement repair and of maintaining the repaired area for one year shall be charged to the person making the street opening.

604.06 EXCAVATION IN NEW STREETS LIMITED. Whenever the Council determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Council, the **City Administrator/Utility Manager or an authorized representative** ~~Board of Public Works~~ shall notify in writing each person, utility, City department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate said street with concrete surface for a period of ten (10) years or with bituminous surface for a period of five (5) years after the date of improvement or repaving unless in the opinion of the **Public Works Committee upon recommendation to the City Council** ~~board of Public Works~~ an emergency exists which makes it absolutely essential that the permit be issued.

604.07 EMERGENCY EXCAVATIONS AUTHORIZED. In the event of an emergency, any person owning or controlling any sewer, water main, conduit or utility in or under any street and his agents or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health, or safety without obtaining an excavation permit; provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining an excavation permit hereunder.

604.08 CITY WORK OR LAWFULLY EXCLUDED AGENCIES EXCLUDED. The provisions of this chapter shall not apply to excavation work under the direction of the City or to contractors performing work under contract with the City necessitating openings or excavations in City streets, which openings or excavations shall be regulated by the contract between the City and the Contractor or **those utilities and entities set forth in Section 66.045(6), Wis. Stats., and any amendments thereto, are excepted from those provisions pertaining to the filing and drawing upon of the cash bond or irrevocable letter of credit, but are required to secure a permit from the City as otherwise set forth above.**

604.09 SIDEWALKS AND MAINTENANCE OF SIDEWALKS EXCLUDED. The provisions of this Chapter do not apply to "Sidewalks" or "Walkways" in the public ways and thoroughfares. The requirement to create new sidewalks, maintain sidewalks and authority for the City to cause changes or require new sidewalks are established in Chapter 620 of the Municipal Code.

604.10 ~~99~~ VIOLATIONS AND PENALTIES. Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall forfeit not less than \$100.00 nor more than \$500.00, together with the costs of prosecution, and if such forfeiture and costs are not paid may be imprisoned in the Richland County Jail

until such forfeiture and costs are paid but not to exceed 90 days. Every day of that a violation exists shall constitute a separate offense.

(History: Ord 477).