

ORDINANCE NO. 2012-002

AN ORDINANCE ESTABLISHING RULES AND PROCEDURES FOR EXCAVATION IN CITY ROW'S, REQUIRING AN APPLICATION, BOND, INSURANCE AND A PENALTY FOR VIOLATIONS.

- I. **NAME:** THIS ORDINANCE SHALL BE KNOWN AS AND REFERRED TO AS THE "CITY OF PEÑITAS EXCAVATION ORDINANCE".
- II. **PERMIT:** IT SHALL BE UNLAWFUL FOR ANY PERSON, COMPANY OR UTILITY PROVIDER TO MAKE ANY EXCAVATION OR OPENING IN ANY OF THE STREETS, ALLEYS OR PUBLIC HIGHWAYS, ROADS AND PROPERTIES OF THE CITY WITHOUT FIRST HAVING OBTAINED A PERMIT TO DO SO.
- III. **PERMIT FEE:** THE APPLICANT SHALL SUBMIT A FULL APPLICATION, SUPPORTING INFORMATION AND SITE MAP AND A NON-REFUNDABLE \$ 25.00 PERMIT FEE.
- IV. **APPLICATION:** THE APPLICATION FOR A PERMIT TO MAKE ANY EXCAVATION OR OPENING IN ANY OF THE STREETS, ALLEYS, OR PUBLIC HIGHWAYS OF THE CITY SHALL BE MADE TO THE DIRECTOR OF PUBLIC WORKS OR OTHER PERSON AUTHORIZED BY THE CITY ADMINISTRATOR, AND SHALL INCLUDE AT A MINIMUM THE FOLLOWING INFORMATION:
 - A. THE NAME OF THE STREET OR HIGHWAY IN WHICH THE EXCAVATION IS PROPOSED.
 - B. THE EXACT LOCATION IN SUCH HIGHWAY WHERE THE EXCAVATION IS PROPOSED, INCLUDING A SITE MAP OR PLAN.
 - C. THE PURPOSE FOR MAKING THE EXCAVATION.
 - D. THE NAME OF THE RESPONSIBLE PARTY, PERSON OR COMPANY .
 - E. AN APPLICATION FORM PROVIDED BY THE CITY.
- V. **BOND:** THE DIRECTOR OF PUBLIC WORKS OR OTHER PERSON AUTHORIZED BY THE CITY ADMINISTRATOR SHALL , WORKING WITH THE APPLICANT, DEVELOP A COST ESTIMATE OF THE PROBABLE COST OF REPLACING ANY MATERIAL AND REPAIRING THE EXCAVATION IN THE EVENT THE APPLICANT FAILS TO DO SO OR IN CASE UPON INSPECTION THE APPLICANT'S REPAIR WORK IS UNACCEPTABLE. BASED ON THE SIZE AND SCOPE OF THE EXCAVATION, THE PUBLIC WORKS DIRECTOR MAY REQUIRE THE APPLICANT TO FILE A SURETY BOND IN AN AMOUNT SUFFICIENT TO COVER THE

COST OF THE ESTIMATED WORK TO BE DONE, THE APPLICANT MAY CHOOSE TO MAKE A CASH DEPOSIT TO COVER THE COST OF THE ESTIMATE.

- VI. **CASH DEPOSIT:** THE APPLICANT MAY MAKE A DEPOSIT IN LIEU OF BOND IN THE FORM OF A MONEY ORDER OR CASHIER'S CHECK. IF THE APPLICANT IS A COMMERCIAL VENTURE OR UTILITY THE CITY WILL ACCEPT A COMPANY CHECK . THE DEPOSIT WILL BE RETURNED TO THE APPLICANT WITHINFIVE BUSINESS DAYS AFTER A FINAL INSPECTION BY THE PUBLIC WORKS DIRECTOR DETERMINES THE WORK WAS COMPLETED IN A SATISFACTORY MANNER PURSUANT TO CITY STANDARDS.

- VII. **INSURANCE:** BEFORE ANY PERMIT IS ISSUED FOR ANY EXCAVATION OR OPENING IN ANY STREET, ALLEY OR PUBLIC ROW OF THE CITY, THE APPLICANT MUST PROVIDE PROOF OF LIABILITY INSURANCE ISSUED BY A COMPANY DULY AUTHORIZED TO TRANSACT LIABILITY INSURANCE IN THE STATE OF TEXAS . THE POLICY SHOULD COVER BODILY INJURIES AND INJURY TO OR THE DESTRUCTION OF PROPERTY RESULTING FROM SUCH WORK OR EXCAVATION. THE MINIMUM AMOUNT OF COVERAGE SHALL BE \$ 100,000.00.

- VIII. **PENALTY:** EACH VIOLATION OF THIS ORDINANCE SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED \$ 200.00 FOR EACH DAY THAT SUCH VIOLATION CONTINUES.

- IX. **PERMIT SCOPE:** THE PERMIT SHALL BE ONLY FOR THE SITE SPECIFIED, IF ADDITIONAL WORK AT OTHER SITES IS TO BE PERFORMED, A SEPARATE PERMIT SHALL BE REQUIRED. THE PERMIT SCOPE WILL ALSO SPECIFY A TIMELINE INDICATING THE START AND COMPLETION DATES FOR THE EXCAVATION.

- X. **PERMIT TIME LIMIT:** IF THE WORK SPECIFIED IN THE PERMIT IS NOT BEGUN WITHIN 30 DAYS OF ISSUANCE OF THE PERMIT, THE PERMIT SHALL EXPIRE AND BECOME NULL AND VOID. A NEW PERMIT WILL BE REQUIRED IF THE SAME WORK IS SCHEDULED FOR A LATER DATE. IF WORK IS BEGUN WITHIN THE 30 DAYS BUT WORK IS SUSPENDED OR ABANDONED FOR 30 DAYS THE PERMIT SHALL BE NULL AND VOID AND A NEW PERMIT SHALL BE REQUIRED BEFORE WORK CAN BE STARTED AGAIN.

- XI. **METHOD OF CUTTING:** WHEN THE CUTTING OF EXISTING PAVEMENT, WHETHER ASPHALT OR CONCRETE, IS NECESSARY THE PERMIT HOLDER MUST MAKE PRECISION SAW CUTS INSTEAD OF OPEN TEARING WITH EXCAVATOR OR BACKHOE

TO MINIMIZE DAMAGE AND MAKE FOR A BETTER TRANSITION AND MATCH OF PATCHES.

- XII. EMERGENCY REPAIRS:** IF EXCAVATION IS NECESSARY FOR EMERGENCY REPAIRS OF EXISTING UTILITIES AT A TIME WHEN THE CITY OFFICES ARE CLOSED (EVENINGS, WEEKENDS OR HOLIDAYS), THE RESPONSIBLE PERSON SHALL MAKE EVERY EFFORT TO CONTACT THE PUBLIC WORKS DIRECTOR PRIOR TO EXCAVATING TO GET EMERGENCY AUTHORIZATION. THE RESPONSIBLE PARTY MUST GET A PERMIT AND COMPLY WITH ALL APPLICABLE SECTIONS OF THIS ORDINANCE AS SOON AS POSSIBLE ONCE CITY OFFICES ARE OPEN FOR BUSINESS.
- XIII. SUPERVISION AND INSPECTION OF WORK:** ALL EXCAVATIONS SHALL AT ALL TIMES BE UNDER THE INSPECTION OF THE DIRECTOR OF PUBLIC WORKS OR ANY OTHER PERSON DESIGNATED BY THE CITY ADMINISTRATOR TO ENSURE THAT THE STREETS AND ALLEYS OF THE CITY SHALL NOT BE UNDULY DISTURBED AND TRAFFIC OBSTRUCTED. THE EXCAVATION MUST BE PATCHED WITHIN SEVEN CALENDAR DAYS AFTER COMPLETION OF THE WORK HOWEVER THE DIRECTOR OF PUBLIC WORKS MAY REQUIRE PATCHING IN LESS TIME OR GRANT AN EXTENSION IF THE SITUATION WARRANTS SPECIAL CONSIDERATIONS DUE TO SAFETY, WEATHER, LOCATION AND TRAFFIC.
- XIV. COMPLETION OF WORK:** AFTER THE EXCAVATION IS COMPLETE, THE RESPONSIBLE PARTY SHALL BACKFILL OR PATCH WITH SUCH MATERIALS AND IN SUCH A MANNER AS DIRECTED BY THE DIRECTOR OF PUBLIC WORKS TO LEAVE THE STREET, ALLEY OR RIGHT OF WAY IN AT LEAST THE SAME CONDITION AS IT WAS PRIOR TO THE EXCAVATION.
- XV. FINAL INSPECTION, CLEARANCE AND ACCEPTANCE OF WORK:** THE DIRECTOR OF PUBLIC WORKS SHALL MAKE A FINAL INSPECTION AND SUBMIT A WRITTEN ACCEPTANCE AND CLEARANCE INDICATING THE PERMIT HOLDER HAS COMPLIED WITH ALL CITY CONDITIONS AND RELEASE THE BOND. IF THE FINAL INSPECTION FAILS THE PERMIT HOLDER SHALL BE HELD ACCOUNTABLE TO MAKE THE APPROPRIATE CORRECTIONS WITHIN A SPECIFIED TIME OR THE DIRECTOR OF PUBLIC WORKS SHALL CALL ON THE BONDSMAN TO PAY FOR THE COST OF REPAIRING THE EXCAVATION BACKFILL OR PATCHING. IF A CASH DEPOSIT WAS MADE THE DIRECTOR OF PUBLIC WORKS SHALL NOTIFY THE PERMIT HOLDER THAT THE CASH DEPOSIT IS FORFEITED AND PROCEED TO DO THE REPAIRS AND PAY FOR SUCH REPAIRS WITH THE FORFEITED FUNDS. IF THE WORK IS PAID FROM THE CASH