

CITY OF SAN MARCOS
ENGINEERING DIVISION

STREET EXCAVATION ORDINANCE

ORDINANCE NO. 2003-1196

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA AMENDING TITLE 14 OF THE SAN MARCOS MUNICIPAL CODE BY THE AMENDMENT OF CHAPTER 14.12 "EXCAVATIONS, FILLS AND OBSTRUCTIONS"

WHEREAS, Chapter 14.12 of the San Marcos Municipal Code relates to the regulation of excavations within the public's highway; and

WHEREAS, the City of San Marcos desires to regulate excavations within the Public's highways in order to assure superior condition of the highways; and

WHEREAS, the City of San Marcos now desires to make those changes and other clarifications as they relate to excavations, fills and obstructions within the Public's highways

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN MARCOS DOES ORDAIN AS FOLLOWS:

SECTION I: That Title 14 of the San Marcos Municipal Code is hereby amended by the repeal of current Chapter 14.12 in its entirety and the re-enactment of Chapter 14.12 to be read as set forth in Exhibit "A", attached hereto and made a part hereof. This Ordinance is adopted pursuant to Government Code Section 50022.2 through 50022.8 inclusive.

SECTION II: If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective

of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION III: The City Clerk of the City of San Marcos is hereby directed to publish this ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15) days after its passage in the in the North County Times, a newspaper of general circulation published in the City of San Marcos.

SECTION IV: This ordinance shall take effect and be in force on the 30th day from and after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos, California, held the 26th day of August, 2003, and thereafter;

PASSED, APPROVED, AND ADOPTED by this 26th day of August, 2003, by the following roll call vote:

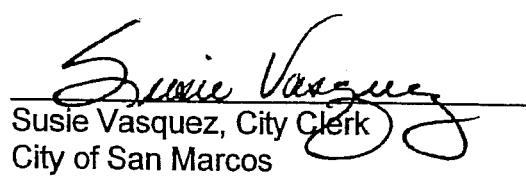
AYES: COUNCILMEMBERS: HARRIS, MARTIN, PRESTON, THIBADEAU, SMITH

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE


F. H. "Corky" Smith, Mayor
City of San Marcos

ATTEST:


Susie Vasquez, City Clerk
City of San Marcos

APPROVED AS TO FORM:

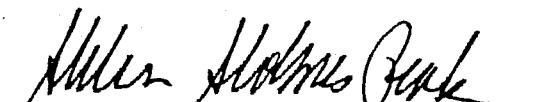

Helen Holmes Peak, City Attorney
City of San Marcos

EXHIBIT "A"

REVISION TO MUNICPAL CODE:

CHAPTER 14.12

EXCAVATIONS, FILLS AND OBSTRUCTIONS

Sections:

- 14.12.010 Definitions
- 14.12.020 Scope of Regulations
- 14.12.030 Permit - Required
- 14.12.040 Permit - Application
- 14.12.050 Determination of Responsibility
- 14.12.060 Proof of Right To Use Highway
- 14.12.070 Location Changes Required by the Director
- 14.12.080 Permits Subject to Use of Highway by Others
- 14.12.090 Permits Nontransferable
- 14.12.100 Commencement of Work - Cancellation of Permit
- 14.12.110 Applicant Responsible for Removing Obstructions
- 14.12.120 Applicant Responsible for Maintaining Facilities
- 14.12.130 Applicant Responsible for Maintaining Surface Restoration
- 14.12.140 Required Fees
- 14.12.150 Deposits, Surety and Liability Insurance
- 14.12.160 General Requirements
- 14.12.170 Preservation of Monuments Within Roadway
- 14.12.180 Working Hours, Noise, Dust, and Debris
- 14.12.190 Removal and Protection of Utilities
- 14.12.200 Protection of Adjoining Property
- 14.12.210 Damage to Existing Improvements
- 14.12.220 Excavation in New Street Improvements
- 14.12.230 Sidewalk and Trail Excavations
- 14.12.240 Restoration of Surfaces
- 14.12.250 City's Right to Restore Surface
- 14.12.260 Clean Up
- 14.12.270 Permanent Completion of Work
- 14.12.280 Emergency Work
- 14.12.290 Public Service Companies
- 14.12.300 Maintenance of Drawings
- 14.12.310 Enforcement
- 14.12.320 Penalty
- 14.12.330 Liability of City

14.12.010 Definitions. For the purposes of this Chapter, the Definitions as listed within Title 14 of the Municipal Code shall determine the meaning of words found within this Ordinance except those words as listed this section:

(a) **Applicant.** Means any person making written application to the Public Works Director for an excavation permit hereunder.

(b) **Conflicting Utility.** Means a facility held by one firm that is located in such a manner that it conflicts with the placement of a structure from another utility.

(c) **Director.** Means the City Manager for the City of San Marcos, or his designee.

(d) **Emergency Work.** Means work which is caused by outages or a safety hazard to residents or employees, or a failure of systems that creates a situation that could possibly be detrimental to the health, safety and welfare of the City residents.

(e) **Excavation.** Means any opening/closing in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.

(f) **Facility.** Means any pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, cable, junction box, transformer, pole, anchor or any other material, structure or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed, or maintained in, upon, along, across, under, or over a public place.

(g) **First Phase of Excavation.** Means the actual excavation, backfill and temporary street patch.

(h) **Final Phase of Excavation.** Means the complete and permanent restoration of the street surface to standards included within in this Ordinance.

(i) **Mark Out.** Means the process of locating sub-structure facilities on the surface and marking those locations with paint, tape, etc. and by means of contacting Underground Service Alert (USA) as required by law.

(j) **Minor Excavation.** Means all single excavations, exploratory excavations or potholes that are less than ten (10) square feet in size.

(k) **Pavement Management System.** Means the system employed by Public Works to rate the condition of a roadway using a predetermined index.

(l) **Person.** Means any person, firm, partnership, association, corporation, company, political body, or organization of any kind.

(m) **Public Place.** Means any public street, way, place, alley, sidewalk, trail, park, square, or any other public property owned or controlled by any government agency in a governmental capacity.

(n) **Public Works Inspector.** Means the Public Works Inspector employed by or contracted by the City of San Marcos.

(o) ***Sidewalk.*** Means any concrete sidewalk, made of either Portland Cement Concrete (PCC) or Asphalt Concrete (AC) or other public way used expressly for pedestrian traffic.

(p) ***Street.*** Means any street, highway, alley, avenue, or other public way or public grounds in the City used for vehicular traffic.

(q) ***Substructure.*** Means any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or any other facility located below the surface of any public place.

(r) ***Traffic Control.*** Means by which vehicular traffic is safely routed through a work zone.

(s) ***Trail.*** Means any trail or graded path, either natural or composed of asphalt concrete, Portland cement concrete, decomposed granite or wood mulch used for pedestrian, animal or bicycle traffic.

14.12.020 Scope of Regulations. The provisions of this chapter apply only to permits for the making of excavations, fills or obstructions, for the purpose of installing or repairing utilities including, but not limited to, sanitary sewer, storm drainage, domestic and irrigation water, oil and natural gas, electrical power, data communication, telephone, and television signals; both main and lateral lines.

14.12.030 Permit - Required. No person shall excavate, tunnel, cause to undermine, or in any manner break up any street, sidewalk, trail or public place, or make or cause to be made any excavation in or under the surface of any public place for any purpose, or deposit, place, or leave upon any public place any earth or other excavated material obstructing or tending to interfere with the free use of the public place, or fill any excavation in any public place, unless such person shall first have obtained an excavation permit therefore from the Director.

14.12.040 Permit—Application. The Director is hereby appointed and authorized by the City to process and handle excavation permits applied for within the City. Application for a permit required by this chapter shall be made in accordance with Chapter 14.04 of the San Marcos Municipal Code. The application shall specify in detail:

(a) The name and address of the applicant.

(b) The location, dimensions, purpose, extent and nature of the excavation, fill, or obstruction.

(c) The time during which it is estimated that such excavation or obstruction will exist.

(d) The method of traffic handling, in the form of a traffic handling plan prepared by the applicant or their engineer, around the construction.

(e) Other such information as may be required by the Director.

No permit shall be issued unless a standard City application form for the issuance of any excavation permit is submitted to the Director. The standard application

form shall be accompanied by: plans showing the location and extent of the proposed work, by plans showing how traffic will be controlled through the work zone of the proposed work, by a liability insurance certificate which additionally insures the City, its officers and employees and, by a cash deposit or surety bond which guarantees both the restoration of the highway surface and the adequate maintenance, for a subsequent twelve (12) month period, of such restoration. Such application will be submitted to the Director at least two (2) working days prior to the proposed work. The City shall require a minimum of two (2) working days in order to review the application package. The permit shall be issued by the Director upon his determination of the suitability of the application and its attachments and upon payment of fees associated to the permit.

14.12.050 Determination of Responsibility. The applicant shall indicate on the permit application the following information: Who is requesting the proposed work, Who will actually be performing the proposed work, Which agency will maintain the facility being installed or repaired, Which agency will provide inspection services, and who will actually be performing the paving portion of the proposed work.

14.12.060 Proof of Right to Use Highway. The Director may require each applicant for a permit to file with him proof of an applicants right to use a highway for the purposes set forth in the application.

14.12.070 Location Changes Required by Director. The Director may require changes in the location of the proposed excavations, fills or obstructions as may be necessary to prevent undue interference with the use of the highway for other lawful purposes.

14.12.080 Permits Subject to Use of Highway by Others. Every permit for an excavation in or under the surface of any highway shall be granted subject to the right of the City or of any other person entitled thereto, to use that part of such highway for any purpose for which such highway may lawfully be used.

14.12.090 Permits Nontransferable. Permits issued under this chapter are nontransferable.

14.12.100 Commencement of Work - Cancellation of Permits. The Director may cancel a permit unless the work is commenced within sixty (60) days of the issuance thereof and thereafter, in the opinion of the Director, is diligently prosecuted to completion. Permit is automatically void if work is not started six (6) months after date of issuance.

14.12.110 Applicant Responsible for Removing Obstructions. Every application shall contain a statement, signed by the applicant, that as to any encroachment not placed in a right-of-way which is prior in time and/or right to the City's right-of-way, if any tank, pipe, conduit, duct, tunnel, pole, anchor, or overhead line placed in the excavation or obstruction for which a permit is issued interferes with the subsequent improvement, grading or realignment of the highway by the City then the applicant and his successors or assigns will at his own expense remove such tank, pipe, conduit, duct, tunnel, pole, anchor, or overhead line, or relocate at a location designated by the Director.

14.12.120 Applicant Responsible for Maintaining Facilities. Every application shall contain a statement, signed by the applicant, that as to any facility placed within the City's right-of-way, that the applicant shall agree, that if any failure to an obstruction or

facility were to occur, that the applicant, utility or franchisee for which the facility is placed shall be responsible for the restoration, in perpetuity of time, of their facility, its structure and any effected public improvements. The structure shall include subgrade, points of load bearing, excavations, trench backfills, and fills within which is found the facility. Public improvements shall include roadways, drainage facilities, sidewalks, trails, shoulders and public places.

14.12.130 Applicant Responsible for Maintaining Surface Restoration. Upon permanent completion of the surface restoration of the work area, the applicant shall subsequently be responsible for the maintenance of the surface restoration for a period of twelve (12) months from the opening of the street to public traffic, except for ordinary wear and tear. Any settlement, cracking or raveling of the surface restoration area within a twelve (12) month period shall be evidence of defective surface restoration. The applicant shall restore the backfill or surface area as required by the Director and shall subsequently be responsible for the maintenance of the surface for a period of twelve (12) months following the restoration. Any failure by the applicant to restore the backfill or the surface area upon order of the Director shall be cause for the City to draw down or claim upon deposits or sureties held by the City in order to make the necessary repairs as determined by the Director. The applicant shall request that the Director make a final inspection of the surface restoration area at the end of the twelve (12) month maintenance period. Upon inspection and findings of a satisfactory condition of the surface restoration area, the Director shall release deposits and sureties held, less any outstanding fees, costs, etc. owed to the City, to the applicant.

14.12.140 Fees. Every person, unless exempted by law, applying for a permit required by this chapter and requiring City inspection services shall, at the time of making application for the permit, pay an issuance fee and an Inspection fee, of an amount as determined by the City Council and as adopted by City Council Resolution.

14.12.150 Deposits, Surety and Liability Insurance. Every person applying for a permit required by this chapter shall, at the time of making application for the permit, provide sureties or deposits as required by the Director, which shall provide assurance for the proper restoration of existing or new improvements. The surety or deposit shall also provide assurance that the restoration remains in good condition, as determined by the Director, for a period of twelve (12) months following the permanent completion and acceptance by the Inspector for the work performed under the permit. The City shall hold the surety or deposit for a period of twelve (12) months after the Director's acceptance of the work performed under the permit. The surety or deposit may be claimed upon or drawn from by the City if the applicant fails to conform to the conditions of the permit or of this chapter. The surety or deposit may be claimed upon or drawn from by the City for the payment of fees to the City and costs incurred by the City associated with the enforcement of the conditions of the permit.

(a) **Deposits.** Except as provided in this section, each applicant for a permit in addition to the payment of the issuance fee shall deposit with the Director a sum of money which is twice the estimated cost of repairing the highway which may be damaged or destroyed by the proposed excavation or obstruction. The cost shall be estimated, multiplying the number of square feet of surface area that may be damaged, as shown on the application and accompanying plans, by such sums, as determined by the Director, which most accurately represents the actual cost of the

repair. The Director may change and revise such sums from time to time. No deposit shall be less than two thousand dollars (\$2,000.00) per excavation.

(1) Where the deposit as calculated above in this section will exceed five thousand dollars (\$5,000.00), an exemption from the provisions of this section may be granted for the excess above five thousand dollars (\$5,000.00) to an applicant for a permit in case of a contract secured by a public agency or by a public utility company authorized to occupy a City highway under terms of a franchise granted by the City or under the terms of a franchise issued by the State. The public agency or public utility company for whom the work is to be performed shall submit to the Director a written guarantee of restoration of the highway to the satisfaction of the Director and a guarantee of payment of all costs for which the agency or the company or their contractor may be liable to the City as a condition for such exemption. The public agency or public utility company for whom the work is to be performed shall submit to the Director a written certification that the restoration of the highway to the satisfaction of the Director is a condition precedent to the acceptance of the work by the public agency or public utility company.

(2) If, in the opinion of the Director, any above described deposit is not sufficient for the proper protection of the public highways in which it is proposed to excavate or on which it is proposed to place obstructions, the Director may require as additional deposit in such amount as he determines will be sufficient to protect such public interest.

(b) **Surety.** As an alternative to a cash deposit, the applicant may provide a surety bond in the amount of five thousand dollars (\$5,000.00) payable to the City which shall assure restoration of the highway, maintenance of the restoration for twelve months after permanent completion and payment of fees described within this section. The surety bond must be: 1) with good and sufficient surety, 2) by a surety company authorized to transact business in this state, 3) satisfactory to the City Attorney in form and substance and, 4) conditioned upon the applicants compliance with items described with in this chapter. If, in the opinion of the Director, any above described surety is not sufficient for the proper protection of the public highways in which it is proposed to excavate or on which it is proposed to place obstructions relating to the excavation, the Director may require a different or an additional surety amount in such manner or amount as he determines will be sufficient to protect such public interest.

(c) **Liability Insurance.** Every person applying for a permit required by this chapter shall at the time of making application for the permit provide required satisfactory evidence of public liability insurance for the protection of the City and the applicant against claims for injury or death to any person or persons, or damage to any property arising out of the performance of the work. The contractor shall purchase and maintain a Commercial General Liability Policy on an "occurrence" basis with minimum limit of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage and general aggregate limit of not less than Two Million Dollars (\$2,000,000) (or current limit, if greater) providing deductibles or self-insured retentions not to exceed \$25,000. Such policy shall specifically name the City, its officers and its

employees as additionally insured. Such policy shall guarantee payment of any final judgment rendered against the applicant or the City, within the coverage provided, irrespective of the financial condition of or of any acts or omissions of such applicant. Such policy shall not be terminated or cancelled except upon thirty (30) days written notice to the City. If requested by the applicant, the City shall keep in its file a copy of the applicant's insurance certificate and thereby eliminate the need to provide a copy of the certificate with each excavation application.

(d) **Waiver.** In the case of a public utility, the Director of Public Works, may waive any or all of the requirements of this Section (14.12.150). This waiver, if granted, shall be granted based on the presentation of evidence that satisfactory safeguards exist that protect the City, the traveling public and otherwise accomplish the intent of this section.

14.12.160 General Requirements. A copy of the excavation permit shall be on the job at all times. All work completed under the Ordinance, unless otherwise specified in this Ordinance, shall follow and comply with the detail drawings attached to this Ordinance (see Attachment "A"), most current Standard Specifications for Public Works Construction ("Green Book") and the most current San Diego Area Regional Standard Drawings. A copy of such items will be on file and available for public inspection in the office of the Director. All work conducted under this Ordinance shall comply with the Safety Orders issued by the California State Division of Industrial Safety, which are determined to be necessary for the protection of employees, pedestrians, and other persons, particularly children using or properly in or upon such public streets, thoroughfares, highways, sidewalks, trails or public places, or in the immediate vicinity thereof. The Director may, at his sole discretion, modify the requirement of Attachment "A" from time to time as determined necessary.

The working areas shall be confined so as not to obstruct roadways, driveways, sidewalks, and trails so that not more than one lane of traffic shall be closed at any time, unless specific permission is granted otherwise. Temporary roadways, driveways, and walks shall be constructed where required. Upon approval of a written application to the Director, streets, driveways, or other areas may be closed for specified periods. Free and unobstructed access shall be provided to all driveways and private property access, mailboxes, fire hydrants, water gates, valves, manholes, drainage structures, communication facilities, and other public service structures and property. The applicant shall take appropriate measures to assure that prompt replacement of detector loops or installation of video detection to ensure traffic conditions remain as near to normal as practical at all times. The applicant shall take appropriate measures to assure that occupants of abutting properties and the general public are notified well in advance of the work and shall experience as little inconvenience as possible. The applicant shall route and control traffic, including its own vehicles, as directed by the municipal law enforcement agency, in accordance with standard safety operations for traffic control as outlined within Appendix "A" of the San Diego Area Regional Standard Drawings and as indicated by the approved traffic control plans which have been prepared by the applicant or his engineer. The applicant shall erect and maintain suitable barriers to confine excavated earth from encroachment upon the highways. The applicant shall construct and maintain adequate and approved safe crossings over excavations in order to accommodate pedestrian and vehicular traffic.

The applicant shall provide two (C17) Road Work Speed Limit signs 2'x2' as authorized by Section 22362 of the Vehicle Code in areas where the speed limit exceeds 25 MPH. This section provides authority to post a speed limit not less than 25 miles an hour at locations where employees of any contractor, or of the agency in charge of the job, are engaged in work upon the roadway. This sign should be placed within 400 ft. of the zone where workers are on the roadway or so nearly adjacent as to be endangered by traffic. It shall only be used in conjunction with appropriate advance warning signs. The signs shall be removed promptly when no longer applicable.

The applicant shall provide two (2) suitable signs of at least 2'x3' in dimension denoting the fact that the excavation of the public street is being accomplished by that particular company and contractor. These signs will be located at either end of the job site in a location which will allow the traveling public to observe said signs. This requirement is applicable for all excavations, except that major development project signs will satisfy the intent of this requirement.

14.12.170 Preservation of Monuments Within Roadway. Where plans are submitted, it shall be the responsibility of the engineer of the work to show which monument of record is to be disturbed. The applicant shall not disturb any monuments of record found on the line of the improvements without permission of the Director, and the permittee shall bear the expense of resetting any monuments or stakes that may be disturbed. A licensed surveyor shall complete all work of resetting any monuments or stakes and a corner record shall be filed with the County Recorder before acceptance of the work. Upon proper notification (within seventy-two (72) hours prior to start of excavation), the City will locate, using the most current map available from Engineering, all existing monuments for the applicant.

14.12.180 Working Hours, Noise, Dust, and Debris. Each applicant shall conduct and carry out the work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. Normal working hours for excavations are 7:00 a.m. to 4:30 p.m. Monday thru Friday, excluding City recognized holidays. Night work may be required if necessary to avoid severe traffic congestion. The applicant shall take appropriate measures to reduce the fullest extent practical, noise, dust, and unsightly debris. Working hours may be extended with the express written permission of the Director, if the Director deems it necessary for the health, safety, and welfare of the community. Working hours may be restricted by the Director, if the Director deems that the public interest requires restrictions be placed on the working hours.

14.12.190 Removal and Protection of Utilities. The applicant shall be responsible for notifying the affected utilities, agencies and districts, which own utilities within the area of the applicants work, that work is going to be performed which may affect existing facilities. The applicant shall be responsible for notifying Underground Services Alert or the current utility location service of the need to mark out existing utilities within the area of the applicant's work. The applicant shall conduct exploratory minor excavation or pothole to determine the exact location of all existing utilities within the area of the applicant's work. The applicant shall support and protect, as recommended by the utility owner, substructure apparatus that may be in any way affected by the excavation work. The applicant shall do everything necessary to support, sustain, and protect existing utilities under, over, along, or across said work. The applicant shall be responsible for any damage done to any public or private property

by reason of the breaking of any water pipe, sewer, gas pipe, electrical conduit, communication facility or any other substructure.

An applicant shall not unreasonably interfere with any existing utilities without the written consent of the Director and the utility company or person owning the utility. If it becomes necessary to remove an existing utility, the owner shall complete this only after appropriate notification to Underground Service Alert (USA) as required by law.. No utility owned by the City shall be moved to accommodate the applicant, unless the cost of such work shall be borne by the applicant; nor shall the City be required to pay for moving utilities, when acting as a applicant unless State or Federal law requires said payment. The cost of moving conflicting utilities shall be borne by the applicant unless other arrangements with the owner of the utility are made, or unless State and Federal law specifies otherwise.

14.12.200 Protection of Adjoining Property. The applicant shall at all times and at his own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purposes of support. Where, in the protection of such property, it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the applicant shall obtain permission from the owner of such property for such purpose. The applicant shall, at their 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 public streets resulting from its failure to properly protect and carry out said work.

Care shall be exercised during trenching operations, particularly where trenches are in the vicinity of mature trees and their extensive root systems. The construction layout should be located away from the trees, however, in some areas, locating the construction layout close to trees is unavoidable. Since damage to mature, historical, specimen or other irreplaceable trees is usually final, the applicant will confer with the Director regarding conflicts of this nature.

14.12.210 Damage to Existing Improvements. The applicant shall repair all damage done to existing improvements during the progress of an excavation, including private landscaping and irrigation systems within the Public's right-of-way. Materials for such repair shall conform to the requirements of any applicable code or Ordinance. If, upon being ordered to perform such repairs in a reasonable period of time, the applicant fails to furnish the necessary labor and materials to perform such repairs the cost of such repairs, as provided by the City or its agents, plus a 30% markup for general overhead and administrative expenses, shall be charged to the applicant. The applicant shall be liable on his deposit or bond therefore.

14.12.220 Excavation in New Street Improvements. The provisions of this section are intended to prevent unnecessary interference with new pavement during the period immediately following its construction or resurfacing. Failure by the City to give notice to owners of substructures within the highway shall not affect the provision of this section. No excavation shall be made through the final paving course of any City street prior to nor within two (2) years following the date of completion and acceptance of any work of paving, repaving, chip sealing or seal coating of City Streets except for emergency repairs or service unless the person proposing to make such excavation shall agree to make appropriate restoration of the surface satisfactory to the Director.

14.12.230 Sidewalk and Trail Excavations. Excavations made in or under a sidewalk or trail shall be subject to this Ordinance and, all other conditions determined by the Director when a permit is being requested.

14.12.240 Restoration of Surfaces. Applicant shall comply with the requirements and standards in the most current, Standards for Public Works Construction (Green Book), in the most current San Diego Regional Standard Drawings and, in the requirements as defined in Attachment "A" of this Ordinance and subsequent modifications. Attachment "A" and Figure 14.12.1 describes the City's specific requirements as they pertain to excavations, the breaking of pavement, backfilling, and the restoration of surfaces. Acceptance or approval of any excavation work by the Director shall not prevent the City from asserting a claim against the applicant and their surety for incomplete or defective work if discovered. The Director's, or his representative's, presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.

In the case of excavations and cuts within new street sections see Attachment A, Figure 14.12.2. Appropriate restoration of the surface for cuts perpendicular to the traffic flow may include the entire resurfacing of the entire street section with necessary grinding and an asphalt concrete cap of a minimum thickness of one inch for a distance of 50' on either side of the excavation on a longitudinal basis from curb to curb or the full width of the street.

— In the case of excavations and cuts within new street sections see Attachment A, Figure 14.12.3. Appropriate restoration of the surface for cuts parallel to the traffic flow may include the entire resurfacing of the entire street section with necessary grinding and an asphalt concrete cap of a minimum thickness of one inch from the curb to the center of the street or nearest lane divider for the entire length of the cut plus 10 feet on each end.

14.12.250 City's Right To Restore Surface. If the applicant shall have failed to restore the surface of the street or public place to its original and proper condition, upon expiration of the time fixed by such permit, or shall otherwise have failed to complete the excavation work covered by such permit, or shall have failed to maintain the site of the excavation work in the same or better condition as it was prior to the excavation work for a period of one (1) year after permanent completion of the work and open to public traffic, the Director, at his discretion, shall have the right to do all work and things necessary to restore the street or public place and to complete the excavation work and to restore the street or public place. The applicant shall be liable for the actual cost of the restoration and an additional thirty percent (30%) of such cost, for general overhead and administrative expenses. The City shall have a cause of action for all such cost and the thirty percent (30%) override and for all fees, expenses and amounts paid out and due it for such work. Payment of the amount due the City shall be applied to any funds the applicant has deposited with the City. The City shall also enforce its rights under the applicant's surety bond.

14.12.260 Clean Up. As the excavation work progresses, all streets, public places and private properties shall be maintained free 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 applicant and shall be

completed to the satisfaction of the Director. Water trucks are prohibited from washing streets under new storm water pollution prevention programs. Street sweepers or some other means of dry pickup must be used. From time to time as may be ordered by the Director, and in any event, immediately after the completion of said work, the applicant 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 twenty-four (24) hours after having been notified to do so by the Director, said work may be done by the Director and the rest thereof charged to the applicant. The applicant shall also be liable for the cost thereof plus an additional thirty percent (30%) of such cost, for general overhead and administrative expenses under the applicant's surety bond.

14.12.270 Permanent Completion of Work. The applicant shall prosecute with diligence and to the satisfaction of the Director; all first phase excavation work covered by the permit and shall promptly complete such first phase excavation work restoring the street or public place as near as possible to its original condition not later than forty-eight (48) hours after the original cut, unless extended by the Director. The permanent completion of the excavation work shall be completed not later than thirty (30) calendar days after the original street cut.

14.12.280 Emergency Work. If, in his judgment, the Director determines 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 shall have full authority to order that the applicant's labor, equipment, materials and facilities be employed twenty-four (24) hours a day, or at specific time periods during a day, such that work may be completed as soon as possible with as few conflicts and inconvenience to the public as possible. Nothing in this Ordinance shall prevent excavation for emergency repairs to utility service connections or other work that is necessary for the immediate protection of life or property, provided a permit is applied for within 36 hours following the commencement of work.

14.12.290 Public Service Companies. All persons operating public utilities or other companies in the City either under regulation of the State Public Utilities Commission or under franchise, license, or permit granted by the City, and having the right, either by general or special permission to enter upon streets and open and excavate pavements, sidewalks, trails, or disturb the surface thereon by excavation or other work, shall be subject to the requirements of this Ordinance.

14.12.300 Maintenance of Drawings. Every person owning, using, controlling or having an interest in substructures under the surface of any public place, used for the purpose of supplying or conveying gas, electricity, communication, impulse, water, steam, ammonia, wastewater, gasoline or oil in the City shall keep on file appropriate plans and as-built drawings to show location of such facilities.

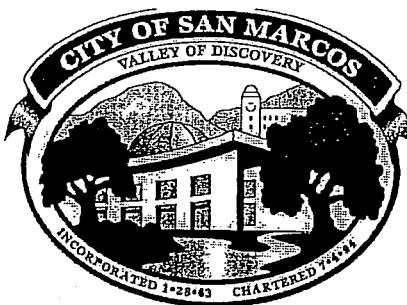
14.12.310 Enforcement. The Director shall have the authority to promulgate and cause to be enforced such Rules and Regulations as are reasonably required to provide for the matters governed by this part and to supplement the same and to provide for the enforcement of this part. Violation of said rules and regulations shall constitute a violation of this part and be considered a misdemeanor.

14.12.320 Penalty. Any person violating or failing to comply with any provision of this Ordinance or committing an act declared to be unlawful by this Ordinance shall be

punishable by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding six (6) months, or both such fine and imprisonment in the discretion of the court. The City may deduct any fine imposed pursuant to this section from deposit funds submitted pursuant to section (14.12.150). Each day any violation of this Ordinance on each and every day that the violation persists shall continue shall constitute a separate offense.

14.12.330 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 work for which a permit is issued hereunder. Nor shall the City, nor any official of the City, nor any employee of the City, 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 work.

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EXCAVATION ORDINANCE "ATTACHMENT A"

BACKFILL REQUIREMENTS

A. BACKFILL WITHIN THE ULTIMATE PAVED AREAS:

1. Material for use as backfill shall have a sand equivalent of not less than twenty (20). The percentage composition by weight as determined by laboratory sieves shall conform to the following grading:

<u>Sieve Sizes</u>	<u>Percentage Passing Sieves</u>
3"	90-100
No. 4	35-100
No. 30	20-100

Excess excavated material shall be disposed of at an approved disposal site. Backfill material shall be placed in horizontal, uniform layers not exceeding eight (8) inches in thickness, before compaction, and shall be brought up uniformly. Backfill material below three feet from the finished surface shall be compacted to a relative compaction of not less than ninety-five (95) percent

2. The restoration of the surface shall consist of "Hot Mix" asphalt concrete placed on compacted crushed aggregate base within a "T" style, saw cut and over excavated section (see figure 14.12-1). The asphalt concrete shall be placed at least one (1) inch thicker than the existing street section, but in no case less than six (6) inches thick, and a minimum of six (6) inches wider than the trench on each side. The crushed aggregate base shall be at least as thick as in the existing street, but in no case less than six (6) inches. The upper three (3) feet of fill including the asphalt concrete and the crushed aggregate base shall be compacted to a relative compaction of no less than ninety-five (95) percent. The complete restoration to the street pavement shall be neat, straight and smooth with feathered edges.

B. BACKFILL WITHIN THE ULTIMATE RIGHT OF WAY (ROW) AREAS:

The backfill material may consist of material from the excavation that is free of stones or lumps exceeding two (2) inches and is free of vegetative or other unsatisfactory matter. The backfill shall be brought up uniformly and shall be compacted to ninety-five (95) percent of relative density. The backfill shall match the existing or proposed profile grade, as determined by the Director. When the material from excavation is unsuitable for use as backfill, it shall be disposed of and replaced with material meeting the above requirements of A.1. Excess material shall be disposed of at an approved disposal site.

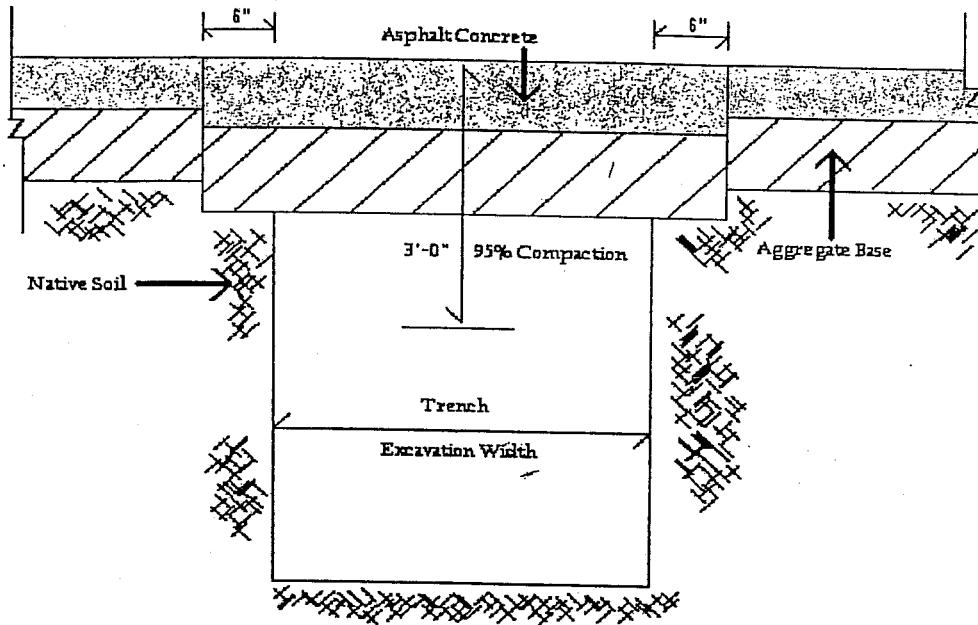


Figure 14.12-1:

- Existing pavement shall be cut with a concrete saw in a square or rectangular section and removed so as not to tear, bulge or displace the adjacent pavement. Edges shall be clean and vertical. All cuts shall be parallel or perpendicular to the street centerline where possible.
- Temporary bituminous resurfacing shall have a minimum thickness of two inches (2") at streets, driveways and parking areas. Sidewalks shall have a minimum one-inch (1") thickness.
- The upper three feet (3') of any trench or excavation within the ultimate paved areas shall be compacted to a minimum ninety-five percent (95%) of relative density. This requirement applies to backfill, aggregate base and asphalt concrete.
- Permanent resurfacing shall include asphalt concrete in a thickness one inch (1") greater than existing but in no case less than six inches (6") in residential, commercial and arterial roads and compacted class II aggregate base in a thickness equal to existing but in no case less than six inches (6").
- A binder or asphalt emulsion tack shall be applied to all contact surfaces prior to resurfacing. All resurfacing shall be sealed as directed by the Public Works Inspector. If the existing surface is chip sealed, chip sealing shall be applied to permanent resurfacing
- The requirements for narrow rockwheel-style trenches may be different than those described above. Please see the Public Works Inspector to discuss slurry or alternate options for narrow trench backfill and resurfacing requirements.

NOTE: At the option of the Public Works Director, wherever relative density is specified, it shall be determined by California Test Methods No. 216, 231 or 304, or by ASTM's No. D1556, D1557, D2922 or D3017.

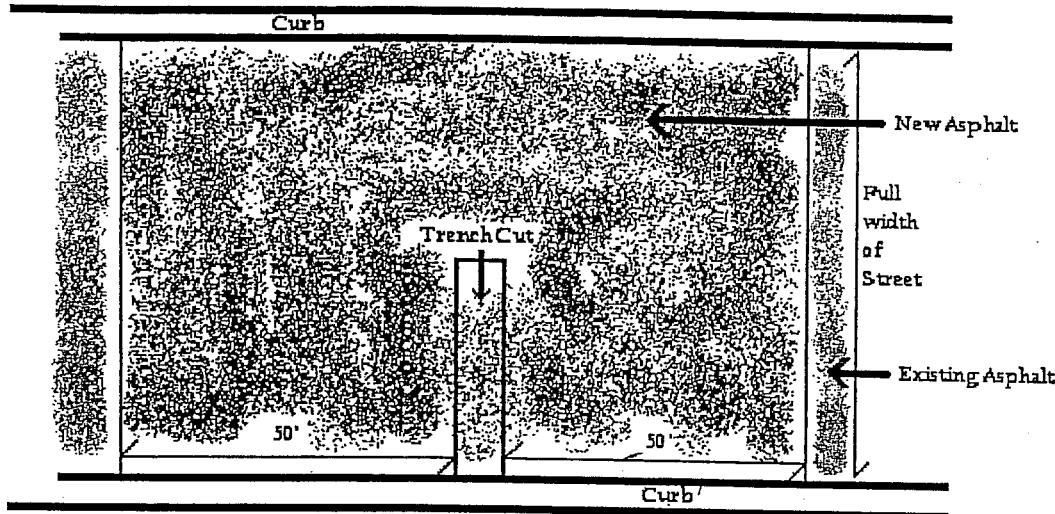


Figure 14.12-2:

- Existing pavement shall be cut with a concrete saw in a square or rectangular section and removed so as not to tear, bulge or displace the adjacent pavement. Edges shall be clean and vertical. All cuts shall be parallel or perpendicular to the street centerline where possible.
- Temporary bituminous resurfacing shall have a minimum thickness of two inches (2") at streets, driveways and parking areas. Sidewalks shall have a minimum one inch (1") thickness.
- The upper three feet (3') of any trench or excavation within the ultimate paved areas shall be compacted to a minimum ninety-five percent (95%) of relative density. This requirement applies to backfill, aggregate base and asphalt concrete.
- Permanent resurfacing shall include asphalt concrete in a thickness one inch (1") greater than existing but in no case less than six inches (6") in residential, commercial and arterial roads and compacted class II aggregate base in a thickness equal to existing but in no case less than six inches (6").
- New asphalt overlay of one inch (1") shall extend the full width of the street and fifty feet (50') from each end of the trench cut ground and feathered in where it meets existing asphalt or curb.
- A binder or asphalt emulsion tack shall be applied to all contact surfaces prior to resurfacing. All resurfacing shall be sealed as directed by the Public Works Inspector. If the existing surface is chip sealed, chip sealing shall be applied to permanent resurfacing.

NOTE: At the option of the Public Works Director, wherever relative density is specified, it shall be determined by California Test Methods No. 216, 231 or 304, or by ASTM's No. D1556, D1557, D2922 or D3017.

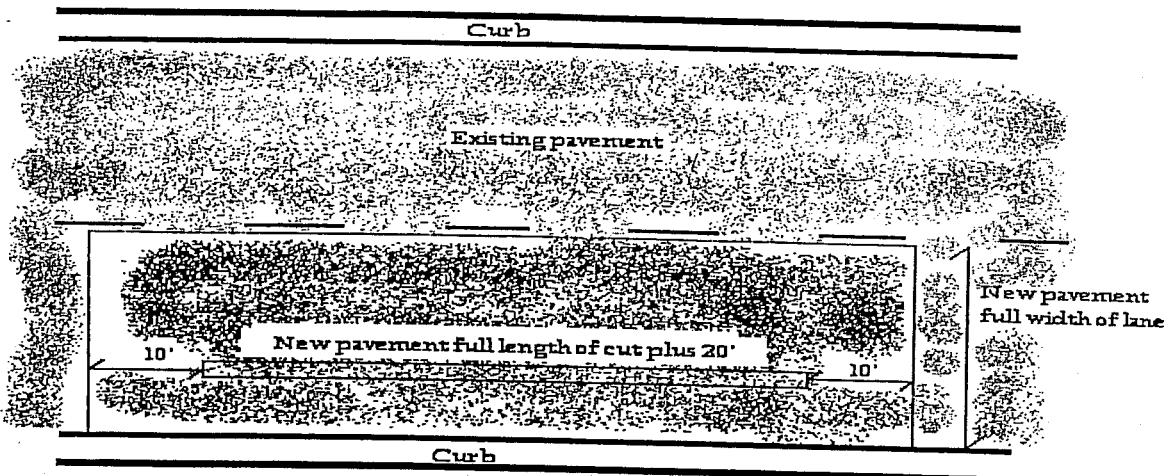


Figure 14.12-3:

- Existing pavement shall be cut with a concrete saw in a square or rectangular section and removed so as not to tear, bulge or displace the adjacent pavement. Edges shall be clean and vertical. All cuts shall be parallel or perpendicular to the street centerline where possible.
- Temporary bituminous resurfacing shall have a minimum thickness of two inches (2") at streets, driveways and parking areas. Sidewalks shall have a minimum one inch (1") thickness.
- The upper three feet (3') of any trench or excavation within the ultimate paved areas shall be compacted to a minimum ninety five percent (95%) of relative density. This requirement applies to backfill, aggregate base and asphalt concrete.
- Permanent resurfacing shall include asphalt concrete in a thickness one inch (1") greater than existing but in no case less than six inches (6") in residential, commercial and arterial roads and compacted class II aggregate base in a thickness equal to existing but in no case less than six inches (6").
- New asphalt overlay of one inch (1") shall extend the full width of the lane and ten feet (10') from each end of the trench cut ground and feathered in where it meets existing asphalt or curb.
- A binder or asphalt emulsion tack shall be applied to all contact surfaces prior to resurfacing. All resurfacing shall be sealed as directed by the Public Works Inspector. If the existing surface is chip sealed, chip sealing shall be applied to permanent resurfacing.

NOTE: At the option of the Public Works Director, wherever relative density is specified, it shall be determined by California Test Methods No. 216, 231 or 304, or by ASTM's No. D1556, D1557, D2922 or D3017.