

BILL NO. 22-12667 INTRODUCED BY HOLTMEIER

ORDINANCE NO. 22-13627

AN ORDINANCE AMENDING SECTIONS 505.650, 505.660, 505.670, 505.680, 505.690, AND ADDING THERETO A NEW SECTION 505.665 OF THE CODE OF THE CITY OF WASHINGTON, MISSOURI

BE IT ORDAINED by the Council of the City of Washington, Missouri, as follows:

SECTION 1: Section 505.650 of the Code of the City of Washington, Missouri is herreby amended to read as follows:

No person shall make or cause to be made, or help, aid or assist therein, any excavation or subsurface directional bore on any public street, highway, alley or other public place or any public easement or right-of-way without first having made application for a Right-of-Way Permit to the City Engineer for a permit for such excavation or subsurfacet directional bore and receiving from the City Engineer a written permit to proceed. Before such permit shall be granted, the applicant shall deposit an amount based on the City Engineer's estimated cost of restoration of the affected Right-of-Way or easement. Such deposit may be used to restore the street, highway, alley or other public place, public easement or right-of-way in as good condition as it was before the excavation was made and in accordance with the conditions provided in this Article. In addition to such deposit the applicant shall pay an equal amount to compensate the City for the restoration of any excavated pavement. A permit fee of thirty dollars (\$30.00) shall also be paid for all work that is not considered a subsurface directional bore. A permit fee of \$20 per 100 lf shall also be paid for all subsurface directional bores.

SECTION 2: Section 505.660 of the Code of the City of Washington, Missouri is hereby amended to read as follows:

The deposit shall be returned to the depositor not later than six (6) months after the work shall have been completed, inspected, and the place restored to its original condition and in accordance with the provisions of this Article. This maximum six-month time frame

shall serve as a warranty period. Factors that will determine the length of deposit time shall include the extent of backfill required, the type of pavement restoration, and the traffic conditions the excavation or subsurface directional boring will experience. If the restored excavation subsurface or directional boring fails due to backfill settlement the deposit will be forfeited. The City shall thereafter cause the excavation or subsurface directional boring to be restored utilizing the forfeited deposit to pay for the costs of restoration. If the deposit is not sufficient to pay the entire costs thereof, the depositor shall be required to pay the balance thereof. No excavation or subsurface directional bore permits shall be issued to anyone with a balance due to the City. Any excess deposit shall be returned to the depositor.

SECTION 3: Section 505.665 of the Code of the City of Washington, Missouri is hereby enacted to read as follows:

1. The utility provider, contractor and sub-contractor for any excavation or subsurface directional boring work must be co-listed on Right-of-Way Permit and all such parties (collectively, the "Permittee") shall submit a certificate of insurance (COI) for every permit applied for. The utility provider, contractor, and sub-contractor shall be listed as insureds on the Certificate of Insurance (COI) covering the work.
2. Each Right-of-Way permit applied for shall not exceed 2000 lineal feet per permit.
3. Each Permittee shall hold no more than ten (10) Excavation Permits involving active directional boring at any specific time. Provided, however, each Permittee may apply for an additional five (5) permits, but such permits shall not be issued by the City until the active directional boring under existing permits has been completed by the Permittee. For example, if Permittee is conducting directional boring under ten (10) permits and completes the active directional boring under one (1) such permit, one (1) additional permit may be issued by the City. The purpose of this provision is to limit Permittee's active directional boring to ten (10) permits at any given time. "Active directional boring" shall include all work

where directional boring is taking place and does not include projects where the directional boring has been completed and the Permittee is taking final steps such as site restoration.

4. All boring equipment shall be calibrated in accordance with the manufacturer's specifications. In addition, the calibration shall be checked at a minimum of once per day and at any time the location for the boring head is determined to be unknown during operations. Such check shall be conducted to ensure that the equipment is correctly calibrated and functioning properly. The supervisor on duty shall keep a log on the project site indicating the performance of any calibrations or checks, including a signature verifying that the check was witnessed. This log will be made available to City Inspector upon request at any time. Failure to produce confirmation and proof of calibrations/checks will result in a Tier 1 Violation, with a protocol as outlined below.
5. All utility crossings shall occur at the pothole. If the boring equipment is determined to be crossing the utility in question at a different location than the intended pothole, a new pothole at the current location shall be dug and the utility shall be exposed at the new crossing location. In addition, the depth of the boring equipment shall be noted upon the ground in white spray paint at all utility crossing locations. All information obtained by the Permittee regarding the actual location of any City utilities at the site of any pothole and utility crossing shall be provided to the City within thirty (30) days of the utility crossing.

SECTION 4: Section 505. 670 of the Code of the City of Washington, Missouri is hereby amended to read as follows:

Every person who shall cause to be made any excavation or subsurface directional boring in or adjoining any public street, highway, alley or public place or on any public easement or right-of-way shall follow all guidelines for signage and barricading according to the current edition of the Manual on Uniform Traffic Control Devices. A traffic control plan shall be approved by the City Engineer prior to any excavation or subsurface directional boring under the jurisdiction of this permit. Such plan shall address

traffic control and restoration during all excavation and subsurface directional boring activities. Portable plates may be required to restore traffic prior to the completion of pavement restoration.

SECTION 5: Section 505.680 of the Code of the City of Washington, Missouri is amended to read as follows:

A. Excavations or subsurface directional boring in any surfaced street or alley, whether a permanent or temporary surfacing exists on the street or alley at the time the excavation or subsurface directional boring is made, shall be made to minimize effect on existing pavement, and all materials removed from the excavation or subsurface directional boring shall be disposed of at some different location other than its origin. Such excavations or subsurface directional boring and related pavement shall be restored per Figures A, B or C at the end of this Section. The applicant shall be responsible to place backfill as specified. Such placement shall only be accomplished after proper notice has been provided to the City Engineer. Such notice shall be given to allow for the proper inspection services to be provided. Any backfill placed without proper notice being provided shall be removed and restored under the City's inspection. The pavement shall be restored by the City. If the initial payment is not sufficient, the applicant shall be required to pay the balance. Any excess amount shall be returned to the applicant. A sequence of required events, as stated herein, can be found on Figure D.

1. Backfill.

a. Existing Asphalt Pavement.

(1) Minimum thickness four (4) inches or match existing thickness.

b. Existing Concrete Pavement.

(1) Minimum thickness six (6) inches or match existing thickness.

(2) Replace concrete a minimum of eight (8) feet from joint.

(3) Dowel with five-eighths (5/8) inch diameter rebar eighteen (18) inches long on eighteen-inch centers for concrete equal to or greater than seven (7) inches thick.

2. Figures.

FIGURE A. FLOWABLE FILL

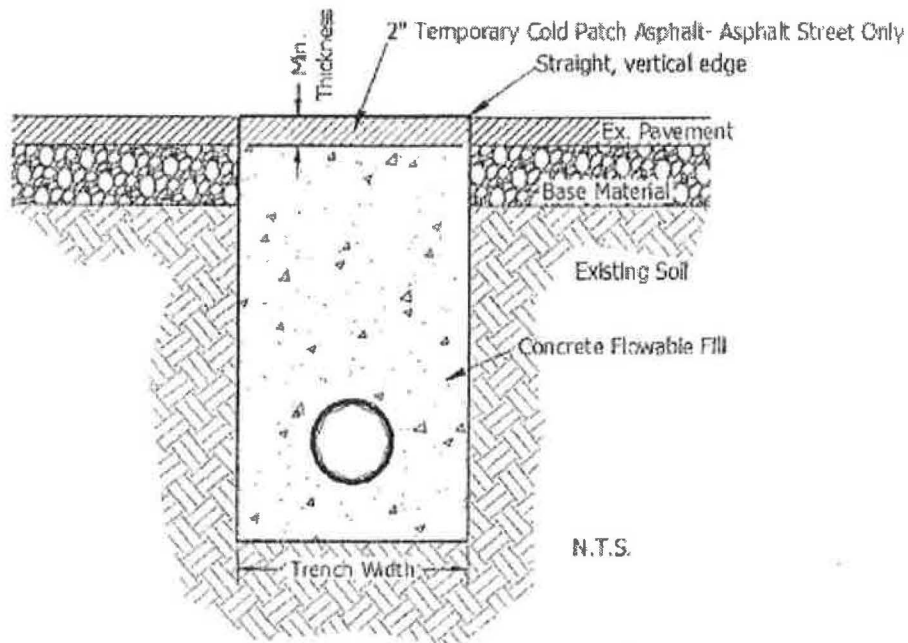


FIGURE B. ONE-INCH CLEAN ROCK BACKFILL

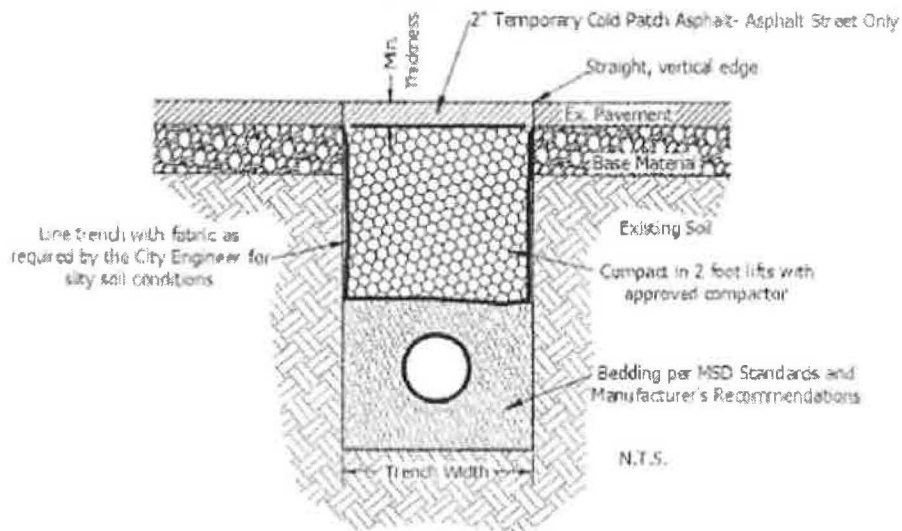


FIGURE C. TYPE (1) ROCK BACKFILL

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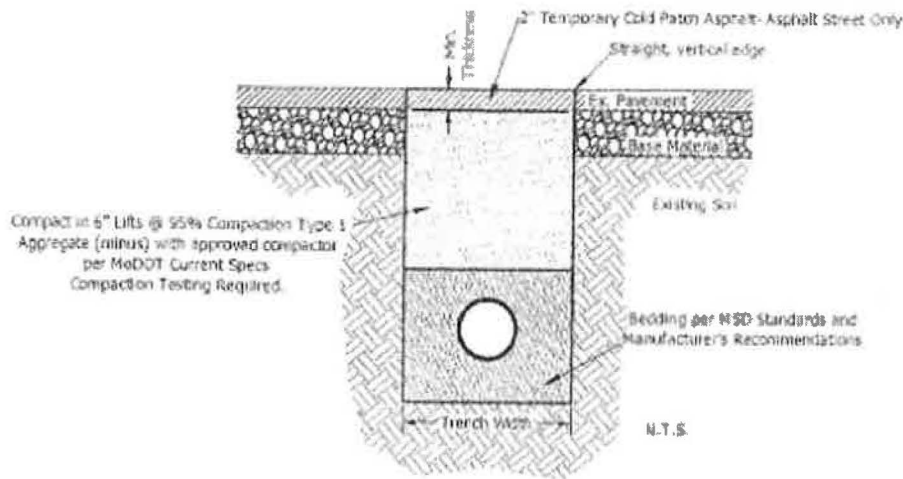


FIGURE D

- A. City receives application (street excavation permit).
- B. City Engineer establishes the cost for pavement restoration.
- C. Applicant provides payment of twice the cost of pavement restoration.
One-half (1/2) of this shall be utilized for initial pavement restoration.
The remaining one-half (1/2) of the payment shall serve as a warranty as specified herein. The inspection fee shall also be paid.
- D. Applicant notifies City when backfill operations will occur.
- E. Applicant places backfill with City inspector present. See Figures A, B, and C above.
- F. City completes final pavement restoration. If the initial payment is not sufficient, the applicant shall be required to pay the balance.
Any excess amount shall be returned to the applicant.
- G. After the required warranty period, the City shall:
 - a. Return the deposit amount if it has been demonstrated that the right-of-way was properly restored.
 - b. If the restored right-of-way has failed during the warranty period, the deposit

FIGURE C. TYPE (1) ROCK BACKFILL

shall be forfeited. The City shall thereafter cause the excavation to be restored.

If the deposit is not sufficient, the depositor shall be required to pay the balance.

Any excess deposit shall be returned to the depositor.

SECTION 6: Section 505.650 of the Code of the City of Washington, Missouri is hereby amended to read as follows:

A tiered violation protocol is hereby established. Depending on the nature of an incident or violation, the following protocols and procedure shall apply:

- 1) Tier 1 Violations including violations of regulations and applicable law not otherwise included in Tier 2, striking, or otherwise damaging a utility facility other than a gas line, and shovel strikes to a gas line.
 - a. Upon the occurrence of a Tier 1 Violation, a report on the incident including but not limited to information on the cause, person(s) responsible, etc., shall be submitted to the City from the Permittee.
 - b. City Staff shall be allowed ten (10) days from the time of the report submittal to review the report and make any suggestions regarding further conditions or requirements for any work moving forward. Permittee shall comply with any additional conditions or requirements designed to prevent such violation from occurring again.
 - c. City staff may impose further permit conditions and requirements if such conditions and requirements are designed to prevent a similar violation from occurring.
- 2) Tier 2 Violations including striking or otherwise damaging a gas utility (excluding shovel strikes)
 - a. Upon the occurrence of a Tier 2 Violation, a report on the incident including but not limited to information on the cause, person(s) responsible, etc., shall be submitted to the City from the Permittee.
 - b. Representatives of the Utility Provider, the Contractor, and Subcontractor shall be required to meet with City Staff and Administration to discuss and

review the incident report and develop possible resolutions or operational changes to prevent the same violation from reoccurring.

- c. Until the formal report has been submitted, the meeting has been conducted and any resolution or operational changes have been implemented, the Permittee's work described in the Excavation Permit shall be stopped. Upon completion of these items to the City's satisfaction, work related to the Permit may recommence.
- d. City staff may impose further permit conditions and requirements if such conditions and requirements are designed to prevent a similar violation from occurring.
- e. A fee of \$2500 shall be paid to the City by the Permittee so that the City may recoup expenses incurred in staff investigation, inspections and other tasks related to the incident. Work shall not resume until such fee is paid.

3) Multiple At-Fault Violations

- a. Following three (3) Tier 1 violations or three (3) Tier 2 violations within a rolling 90-day period, where the fault is determined to be one of the parties listed on the Permit, any existing excavation permits issued to such Permittee shall be revoked and no new building or excavation permits shall be issued to the Permittee until Permittee: (i) has revised its operations and procedures to ensure that no violations occur; (ii) has submitted its new operational plan to the City for approval; (iii) the City has approved or modified the operational plan (which shall not exceed twenty-one (21) days from the date of receiving the submittal); and (iv) Permittee has undertaken limited directional boring (which shall not exceed 100 linear feet per day) using the procedures outlined in the new operational plan for ten (10) days without a violation.
- b. A fee of \$2500 shall be applied to recoup expenses due to staff investigation, inspection and other tasks relating to Multiple Tier 1 At-Fault Violations.

- c. A fee of \$5000 shall be applied to recoup expenses due to staff investigation, inspection and other tasks relating to Multiple Tier 2 At-Fault Violations.

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: This ordinance shall be in full force and effect from and after its passage and approval.

Passed: 10-03-22

ATTEST: Sheri Klekamp

[Signature]
President of City Council

Approved: 10-03-22

ATTEST: Sheri Klekamp

[Signature]
Mayor of Washington, Missouri