

# CHAPTER 1024

## Excavations

1024.01	Permit required. warning lights.	1024.05	Barricades and
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### CROSS REFERENCES

Authority of City re streets and public property - see CHTR.Ch. XIII  
 Streets and alleys in home rule cities - see MCL Secs.117.4d, 117.4e, 117.4h  
 Excavations generally - see MCL Secs. 554.251 et seq.  
 Streets - see S.U. & P.S. Ch. 1020  
 Excavations in sidewalks - see S.U. & P.S. 1022.04  
 Excavations for C.A.T.V. installations - see S.U. & P.S. 1048.17  
 Excavation permits - see P. & Z. 1252.03(e)

#### **1024.01 PERMIT REQUIRED**

No person, public utility company, franchisee, or licensee other than a duly authorized City official or employee in the course of his or her employment, shall make any excavation or opening in or under any public right of way, street or alley or upon any public property without first obtaining a permit therefor from the City Engineer.  
 (1976 Code Sec. 9.161. Ord. 622. Passed 2-9-04.)

#### **1024.02 RAILROADS.**

No railroad company shall be required to obtain a permit for the purpose of repairing the roadbed of its railway or replacing or repairing the pavement or surface between its tracks and two feet outside thereof.  
 (1976 Code Sec. 9.162)

#### **1024.03 EMERGENCIES; AUTHORITY OF POLICE DEPARTMENT.**

In case of an emergency arising outside of office hours, when an immediate excavation may be necessary for the protection of public or private property, the same shall be reported to the Police Department. The Department shall grant permission to make the necessary excavation upon the express condition that an application be made before 12:00 noon of the next business day.  
 (1976 Code Sec. 9.163)

#### **1024.04 RESTORATION OF SURFACE.**

- (a) Restoration Required. Upon completion of the work done pursuant to a permit under this Chapter, the public right-of-way, street, alley, or public property shall be restored by the Owner or Owners of the property for which the work is being done to the satisfaction of the City Engineer.

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- (b) To ensure restoration of the public right-of-way, street, alley, or public property to its former condition, the Owner or Owners of the property for which the work is being done or the Owners' Representative shall:
- i. Post a bond with the City in an amount established by the City Manager by executive order.
  - ii. In lieu of posting a bond, the Owner or Owners of the property for which the work is being done may agree to a special assessment against the benefitted property for the labor, material or services incurred by the City in restoring the public right-of-way, street, alley, or public property to its former condition in the event that the applicant fails to restore the public right-of-way, street, alley, or public property to its former condition as required by this Section. Such assessment shall be imposed pursuant to the City's Procedure for Assessing Single Parcels as set forth in Chapter 232 of these Codified Ordinances.
- (c) Notwithstanding the foregoing, the Owner(s) or the Owner's representative of the property for which the work is being done shall post a bond in an amount established by the City Manager by executive order, for all work to restore the public right-of-way, street, alley, or public property to its former condition not subject to special assessment. For purposes of this subsection, such improvements are defined as those improvements to public right-of-way, street, alley, or public property that do not abut or specially benefit the property for which the work authorized by the permit is being done.
- (d) Any bond posted under this Section shall be returned to the applicant within 30 days from the date that the work authorized by the permit is completed and the public right-of-way, street, alley, or public property has been restored.

(1976 Code Sec. 9.164. Ord. 851. Passed 12-21-09.)

### **1024.05 BARRICADES AND WARNING LIGHTS.**

An applicant shall keep the excavation operations carefully barricaded, lighted at night and otherwise protected as required by the City Manager for the protection of the public.

(1976 Code Sec. 9.165)

### **1024.06 TIME LIMIT FOR COMPLETION OF WORK.**

The applicant shall work as continuously as practical and shall complete operations within the time specified in the permit. If, in the judgment of the City Manager, the work is not prosecuted in such a manner as to ensure completion within the time specified, the City may undertake the work and collect the cost therefor from the applicant in an action at law or from the applicant's bond.

(1976 Code Sec. 9.166)

### **1024.07 OBSTRUCTIONS.**

No person shall render more than one-half of the traveled width of any street or alley unavailable for travel in connection with any opening or excavation. If any sidewalk is blocked, a temporary sidewalk shall be constructed.

(1976 Code Sec. 9.167)

### **1024.08 BACKFILLING.**

Backfilling shall be subject to the approval of the Engineering Department.

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(1976 Code Sec. 9.168)

### **1024.99 PENALTY.**

Whoever violates or fails to comply with any of the provisions of this Chapter or a permit issued under this Chapter shall be subject to the civil infraction sanctions, injunctive relief, nuisance abatement, surcharges and equitable remedies as provided in the Traverse City Code of Ordinances or as otherwise available under the law, as well as any damages resulting from such violation. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 851. Passed. 12-21-09.)