

Draft Dated 3/25/2021

Ordinance \_\_\_\_\_

An ordinance amending Chapter 12.24 Missoula Municipal Code entitled "Excavations" amending Sections 12.24.020, 12.24.030, 12.24.040, 12.24.090, and 12.24.100 increasing the time for work to commence on a permit from 15 to 180 days, provide for remedies when permitted work does not meet standards, modify the requirements for resurfacing, and add storm sewer permits to the list of required excavation permits.

Be it ordained that Sections 12.24.020, 12.24.030, 12.24.040, 12.24.090, and 12.24.100 are hereby amended:

## Chapter 12.24

### EXCAVATIONS

Sections:

[12.24.005 Definitions.](#)

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[12.24.180 Requirements for special projects](#)

[12.24.190 Violation--Penalty.](#)

#### **12.24.020 Permit--Application.**

A. Application shall be made to Development Services by the excavator stating the purpose for which the excavation is to be made, including locations, depth, width, length and amount of time such excavation is to remain open or unfilled.

B. Applicant shall file, upon request, with Development Services for approval, one drawing of all proposed improvements before permit is issued.

C. Before issuance of a permit the excavator shall contact all underground facilities for their

locations as stated in M.C.A. 69-4-502. The excavator shall have a location number from the Underground Location Center before a permit is issued. In addition to public utility lines, the excavator shall locate and protect private utility lines such as water and sewer services and private irrigation lines.

D. Before issuance of an excavation permit all fees, except the fees specified in Section 12.24.140 shall be paid. The fees to be paid may include but not limited to a: General Obligation Bond, contract for sewer, sewer development, Special Improvement District, and rebate fees.

E. Permits shall expire by limitation and become null and void if work authorized is not commenced within ~~fifteen (15)~~ one hundred and eighty (180) calendar days after date of issuance. Also, permits shall expire by limitation and become null and void if work authorized by the permit is suspended or abandoned by the excavator for more than ~~fifteen 180~~ calendar days. ~~Before work is recommenced, a new permit shall be issued and a full permit fee paid.~~ Extension of time on permits may be granted by the Development Services Director, or a designated agent.

F. Excavations shall be inspected and perform to the approval of the Director. Development Services staff may at any time, when excavations are not performed in accordance with this chapter, have authority to order the excavation contractor to suspend work until excavation conforms with the specifications set forth in this chapter. Inspections shall be required to meet all federal, state, and local requirements. Excavators shall give Development Services staff two hours notice of beginning excavation and two hours notice of commencing backfill.

G. No excavation shall extend over half the width of any traveled portion of the street right-of-way section at any time, except under written authorization of the Development Services Director, or a designated agent.

H. All excavators installing Septic Tank Effluent Pump (STEP) systems shall be required to be certified by the Development Services Director a designated agent to do work on STEP systems.

I. Issuance of a permit will require that the excavator shall have a competent person, as defined by the Federal Occupational Safety and Health Administration (OSHA), on site during all work associated with this permit. (Ord. 3244, 2004; Ord. 3014, 1997; Ord. 2043 §12, 1979; prior code §28-33).

#### **12.24.030 Permit--Application--Fee.**

Permit fees are based on the average direct and indirect costs to provide plan checking, permit administration, field inspection, record management, warranty inspection, and Development Services for excavations. The fees for the following excavation permits shall be established and amended by City Council resolution after conducting a public hearing.

A. Excavation permits for sanitary sewer

~~B.~~ Excavation permits for water

~~B-C.~~ Excavation permits for storm water

~~C-D.~~ Excavation permits for miscellaneous excavations including sewer, water, storm drain, gas, electric, phone, and cable television.

Revenue from these fees shall be credited to the general fund.

(Ord. 3526, 2014; Ord. 3501 §4, 2013; Ord. 3492, 2013; Ord. 3476 §6, 2012; Ord. 3462 §6, 2011; Ord. 3433 §4, 2010; Ord. 3384 §4, 2008; Ord. 3350 §4 2007; Ord. 3323 §4, 2006; Ord. 3298, 2005; Ord. 3259 §3, 2004; Ord. 3244, 2004; Ord. 3227, 2003; 3014, 1997; Ord. 2380 (part), 1984; Ord. 1846, 1977; prior code §28-34).

**12.24.040 Construction Specifications.** All work shall conform to the applicable sections of the Montana Public Works Standard Specifications (MPWSS), latest edition; City of Missoula Public Works Manual, City of Missoula policies, regulations, requirements, addendums, or contract specification approved by the City Engineer; or as specified in this ordinance. Whenever there is a conflict between

MPWSS and the city ordinance, the stricter specification shall govern. Whenever there is a conflict between MPWSS and approved contract specifications, the approved contract specifications shall govern. (Ord. 3244, 2004; Ord. 3014, 1997; Ord. 2055, 1979; prior code §28-35).

**12.24.090 Resurfacing specifications for Public Roadways.** Finished surfaces shall be free of ruts, defects and depressions exceeding 3/8-inch measured with a ten-foot straightedge paralleling the center of the roadway, and must have a smooth riding quality. After bringing the compacted backfill to finished subgrade, the excavator shall employ the following methods where applicable:

A. Concrete Base or Surface. Where the base or surface is concrete, the permittee shall immediately after completion of backfill pour concrete meeting the current city requirements for concrete replacement. All concrete replacement depth shall be a minimum of eight inches, or as directed the Development Services staff. The new concrete shall be properly cured out before opening the patch to traffic loads.

B. Bituminous Surface on Improved Base. -After bringing the compacted backfill to top of subgrade in a manner specified in this chapter, the excavator shall cause bituminous material, of a type and grade equal to the original, to be placed on the subgrade and rolled or otherwise compacted in such a way as to smoothly join the original material without noticeable rise or fall above or beneath the original grade of the adjoining material. Tack coat shall be applied to square cut edges to insure proper bonding to original surface material. The new bituminous surface shall be properly cured before opening the patch to traffic loads. Asphalt patch seams shall be sealed with a mineral-filled or fiberized asphalt sealant. -The thickness of the replaced surfacing shall be as follows:

1. Residential streets shall be ~~two-three (3)~~ inches (CBR 10+); four (4) inches (CBR 5-9).
- ~~2. Commercial streets shall be three inches.~~
- ~~23.~~ Arterial and collector streets shall be four (4) inches (CBR 10+) with two lifts required; six (6) inches (CBR 5-9); with two lifts required.
- ~~34.~~ State primary routes shall be six (6) inches with two lifts required, or per Montana Department of Transportation.

C. Unimproved Surface. -Where the excavation is on unimproved surfaces, the backfill shall be brought to finish grade by using the material, compaction methods and surface acceptance, as provided in Sections 12.24.070 and 12.24.080. When the trench is in natural soil, the top six inches shall be filled with a topsoil equal to the natural topsoil of the surrounding area. -This shall then be graded and shaped to conform to the natural contours of the area.

D. Resurfacing Materials. -Materials used in resurfacing shall be as follows:

1. Prime Coat. All square cut edges shall be primed with MC cutback oils before making a patch.
2. Plant Mix Asphaltic Types. Asphaltic mix shall be the type and grade specified by the Development Services staff.
3. Asphaltic Hot Mix and Cold Mix. Asphaltic plant hot mix shall be used from April 1st to October 31st of any year. Asphaltic plant cold mix shall be used from November 1st to March 31st of any year and shall thereafter be removed and replaced with hot mix. Adjustments may be made, as to dates and types of mix, upon written approval of Development Services staff.

E. Pavement Marking. All pavement marking removed or damaged by excavation work shall be replaced with the same type of material used in the original markings, or those approved by Development Services staff. The work must meet the installation and material specifications commensurate with the type of marking used. Thermoplastic pavement marking may be replaced with plastic inlay tape or an approved equal.

F. Warranty. The holder of the permit shall warrant the work in the public right-of-way to be free from

backfill settlement and surface condition for two years following the completed, accepted work. Warranty starts on date project is accepted by Development Services staff. (Ord. 3492, 2013; Ord. 3244, 2004; Ord. 3014, 1997; Prior code §28-40).

**12.24.100 Applicant Failure to complete excavation and repair surface within fifteen days-- Inspection and completion of repair by city.**

~~A. An applicant for a permit to excavate any surface within public right-of-way of the city shall, within fifteen calendar days of completion of excavation operations, repair and complete the surface of the excavation. Extension of time may be granted by the Development Services Director upon showing of justifiable cause by the excavator; such extension when granted must be in writing.~~

~~AB.~~ If inspection of ~~project excavation, while under construction once commenced,~~ finds ~~construction~~ methods being practiced not conforming to this chapter, a correction notice will be issued by Development Services staff listing items or procedures not meeting requirements of this chapter. If corrections listed on notice are not brought to conformity with this chapter, a stop work order for the project will be issued. Work on the project shall only resume after a meeting with the excavator, Development Services Director or designee, and the Development Services staff member who issued the stop work order. If the project is not brought into conformity with this chapter, the Development Services Director shall cause the excavation to be placed in a condition that does meet the requirements of this chapter. Costs shall be assessed to the excavator's bond under Section 12.24.120, with action against the excavator's city business license, under Section 5.08.120. (Ord. 3492, 2013; Ord. 3244, 2004; Ord. 3014, 1997; Prior code §28-41).

Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading and preliminary adoption on the \_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_ ayes; \_\_\_ nays; \_\_\_ abstentions; and \_\_\_ absent.

Second and final reading and adoption on the \_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_ ayes; \_\_\_ nays; \_\_\_ abstentions; and \_\_\_ absent.

ATTEST:

APPROVED:

\_\_\_\_\_  
Martha L. Rehbein  
City Clerk

\_\_\_\_\_  
John Engen  
Mayor

(SEAL)