

ORDINANCE NO. 41-05-O

AN ORDINANCE TO REGULATE THE OPENING, UNDERMINING, AND REPAIRING OF THE PUBLIC STREETS AND ALLEYS OF THE CITY OF CELINA, OHIO, PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF, AND REVISING SECTION 901 OF THE CODIFIED ORDINANCES OF THE CITY OF CELINA

WHEREAS, the City of Celina Streets and Alleys Committee of the Celina City Council has recommended revising Section 901 of the City's Codified Ordinances; and,

WHEREAS, revisions to the City's Streets, Utilities and Public Service Code under Celina Codified Ordinance 901 Streets and Sidewalks have become necessary to effectively regulate street cut permits, openings and restoration to public right-of-way; and,

WHEREAS, Celina Codified Ordinance 901 specifies permit fees that are inadequate for repair and or reconstruction of the affected public right-of-way and contain little restriction on excavating public right-of-way surfaces; and,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Celina, County of Mercer and State of Ohio.

SECTION ONE

THAT, no opening through, undermining or removal of any pavement or surface in any of the public streets, avenues, alleys, or other public grounds of the City of Celina, Ohio, shall be undertaken by any person, firm or corporation, until a permit therefore shall have been issued by the Safety Service Director, or his designee, unless otherwise hereinafter provided.

SECTION TWO

THAT, the City of Celina shall be responsible for the repairing and repaving of the street, avenue, alley, or public grounds of openings made by the City. All other such permit holders shall repair and or repave such openings that are associated with the repair of their utility. Said permit holders shall be charged a permit fee in the amount of Twenty-Five Dollars (\$25.00). The Permit Fee is in addition to the charges established in the Street Opening Payment Schedule within this Ordinance per square foot for pavement removed, or a minimum of Five Dollars (\$5.00) per square foot of the actual opening. Except for City Departments, only a licensed and bonded contractor in the State of Ohio that is registered in the City of Celina shall be allowed to make cuts, openings, and or pavement removal or replacement within a public street, alley, avenue, or other public grounds of the City of Celina. All other replacement of disturbed surrounding areas shall be the responsibility of the permit holder.

SECTION THREE

THAT, prior to obtaining a permit, the Contractor shall furnish the City with the following:

- (a) A plan and or general specifications showing the proposed location, extent and nature of the work contemplated on an application provided by the City. (City Departments shall be required to obtain such permits without permit costs.)
- (b) For those companies, corporations, contractors, or public utilities that, as a matter of necessity, are required to make numerous street openings, the City shall require a cash deposit. The amount of the cash deposit prior to issuance of a permit shall be twenty percent (20%) of the projected cost in accordance with the Street Opening Payment Schedule in Subsection (d). The balance of the street opening costs shall be due and payable within thirty (30) days of receipt of invoice.
- (c) The Safety Service Director may approve, in lieu of a cash bond, a surety bond or performance bond in the amount equal to the sum determined adequate to cover the cash bond required for utilities or contractors who carry out regular and ongoing street cuts in the City in order to maintain underground utilities.
- (d) The applicant shall be required to submit the following payment(s) to the City. This schedule of payments shall apply to any street surface, curb, and sidewalk (if contiguous to the curb). A list of streets and the year they were improved will be maintained and kept current by the City Engineering Department.

Cost Based Upon a Single Opening

1 Square foot up to 200 Square feet in Area

Year of Improvement	Cost 1-20 Sq. Ft. Min.	Per Sq. Ft. Cost In Excess of 20 Sq. Ft.
1	\$1,000	\$50
2	1,000	50
3	1,000	50
4	900	45
5	800	40
6	700	35
7	600	30
8	500	25
9	400	20
10	300	15
11	200	10
12	100	5
13	100	5
14	100	5
15+	100	5

EXAMPLE: Excavation of an 8' x 12' area in 4 year old street.
 \$900 for first 20 square feet of excavation
 96 sq. ft. - 20 sq. ft. = 76 sq. ft.
 76 sq. ft. x \$45 sq. ft. = \$3,420
 \$3,420 + \$900 = \$4,320 total payment

Cost Based Upon Any Opening
 Larger than 200 Square feet in Area

Year of Improvement	Cost 200 Sq. Ft. Min.	Per Sq. Ft. Cost In Excess of 200 Sq. Ft.
1	\$10,000	\$50
2	10,000	50
3	10,000	50
4	9,000	45
5	8,000	40
6	7,000	35
7	6,000	30
8	5,000	25
9	4,000	20
10	3,000	15
11	2,000	10
12	1,000	5
13	1,000	5
14	1,000	5
15+	1,000	5

EXAMPLE: Excavation 3' x 100' in a 5 year old street.
 \$8,000 for first 200 sq ft of excavation
 300 sq ft - 200 sq ft = 100 sq ft
 100 sq ft x \$40 = \$4,000
 \$8,000 + \$4,000 = \$12,000 total payment

(e) The following exemptions shall apply regarding the fee set forth in Subsection (d) hereof, for opening a new or newly improved street:

(1) Individual sanitary sewer laterals and water service lines under improved streets in place for existing homes shall be exempted from the payment schedule. New connections to natural gas, water or sewer mains to serve new buildings may also be exempt from the payment schedule listed above. The serving of these vacant parcels shall be planned for prior to a street reconstruction or repaving project and where practical shall be installed in advance so as to prevent disturbing the new street within the first fifteen (15) year period following construction.

(2) If repairs, replacement, removal, and or relocation of an underground utility are made prior to a proposed street improvement, a report shall be submitted which details the extent of the repairs and or replacement of utilities which demonstrates due diligence on the part of the utility to reduce the need for re-entering the street following the improvements. A reduction of up to seventy-five percent (75%) in

the Street Opening Payment Schedule may be applicable for those utilities that demonstrate due diligence in repair, replacement, and or relocation of their infrastructure prior to the street improvement.

(3) The City shall have the right to waive the street opening costs, and exempt a corporation, contractor, or public utility in the case of an opening required as a result of a natural disaster such as, but not limited to, a flood, tornado, or earthquake. The Safety Service Director shall also have the authority to waive street opening costs due to circumstances beyond the control of the utility involved and such related costs shall be assessed to the contractor or entity responsible for causing the necessity of repair.

(4) Permits must be obtained retroactively as a result of a break in a utility line that may occur after normal business hours and necessitates emergency repairs. Such permit must be obtained within five (5) business days after repair is initiated.

SECTION FOUR

THAT, The Board of Zoning Appeals shall review any appeals made by individuals, corporations, contractors, or public utilities who are not satisfied with the decision made by the Safety Service Director, who is the Zoning Inspector, regarding the exemption section of this Chapter. The Board of Zoning Appeals shall hear both parties and make a decision based upon the information provided. The decision of the Appeals Board shall be binding and final.

SECTION FIVE

THAT, should public utilities or contractor(s) that occupy streets, alleys or public grounds fail to complete their project within a reasonable time in the City of Celina, then the City may make such necessary repairs and invoice said public utility or contractor(s) for the cost of repairs and said public utility or contractor(s) shall pay all costs (labor, equipment, and or materials) of restoring said pavement or surface and shall make payment to City not later than thirty (30) days from date of invoice.

SECTION SIX

THAT, the application for a permit shall state the location and time, when the opening is to be made, the probable length of time required for making the repair, sizes of the openings to be made, the purpose of the excavation, and such other information as the Safety Service Director may deem necessary for the general health, safety, and welfare of the public.

SECTION SEVEN

THAT, the Safety Service Director shall from time to time make rules and regulations governing the opening of public streets, avenues, alleys, and public grounds, and the materials to be used for resurfacing or repairing of all openings made by the applicant(s). Such work shall be performed under the supervision of the Public Works Department and or the Engineering Department of the City of Celina.

THAT, the permit holder shall be responsible for the immediate backfilling of said openings in accordance with City policies and procedures regarding same.

SECTION EIGHT

THAT, every person who shall dig, or cause to be dug, in or adjoining any street, alley, avenue, or public ground any excavation whatsoever, and every person who shall occupy or cause to be occupied any portion of any street with building material, or any obstruction, shall provide sufficient warning lights and barricades to adequately protect pedestrian and vehicular traffic. Such person shall cause not less than two (2) warning lights to be securely and conspicuously posted in or near such excavation, building material or obstruction (one or more at each end of the space so excavated or occupied) and if the space occupied by such obstruction shall exceed ten feet (10') in extent, additional lights shall be posted as aforesaid for every additional ten feet (10') of excavation or obstruction. Such lights shall be kept operating during the hours of darkness or at anytime ordinary visibility is obscured. The Safety Service Director, or his designee, may require additional lights for an excavated area deemed unsafe. In the case of excavations, whether in an adjoining street, avenue, alley, or public ground and in case of other open or exposed places within the City, suitable warning barriers shall be erected to protect against accidents.

SECTION NINE

THAT, prior to the construction or reconstruction of any street, alley, avenue, or public ground, the Safety Service Director, or his designee, shall cause notices to be sent to all abutting property owners, requiring them to install any necessary utility service lines. Notice shall also be sent to all public

or private utility corporations and City Departments to repair, replace, relocate, or install all necessary mains, conduits, service lines and structures. Property owners, private and public utility corporations and City Departments shall be allowed necessary, reasonable, and legal times required for the aforesaid installations before the new pavement is laid. Thereafter, during the period of three (3) years from final completion of the new pavement, no permit for making an opening in such pavement shall be issued by the City, except by express authority in each case from the Safety Service Director, which authority shall be exercised only for reasons of public necessity or of undue private hardship, where the necessity for the opening arises from causes over which the applicant has no control. Lack of foresight in not installing service connections prior to the laying of new pavement shall not be considered an adequate reason for abrogation of the three-year restriction without adherence with the Street Opening Payment Schedule as delineated in Section Three, Subsection (d) of this Ordinance.

SECTION TEN

THAT, any person, firm, or corporation violating any of the above provisions of this Ordinance shall be deemed guilty of a minor misdemeanor. Each day of continued violation and each opening made in any street, avenue, alley, or public ground without complying with the provisions of this Ordinance shall constitute a separate offense.

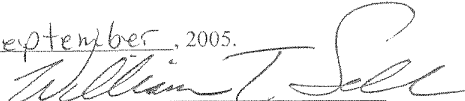
SECTION ELEVEN

THAT, all Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

SECTION TWELVE

NOW THEREFORE, Council declares this Ordinance to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare, such emergency arising out of the necessity to update the present Ordinance without undue delay; wherefore, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor at the earliest period allowed by law.

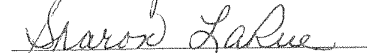
PASSED this 12 day of September, 2005.


William T. Sell, President of Council


ATTEST:


Jackie L. Lacy, Clerk of Council

APPROVED Sept. 12, 2005.


Sharon LaRue, Mayor

APPROVED AS TO FORM:


Kevin M. McKirnan, City Law Director