

CITY OF BATAVIA

Public Works Department

DATE: June 23, 2010
TO: Mayor and City Council
FROM: Gary Holm
SUBJECT: Ordinance #10-17 Amending Title 7 of the Code relating to Excavations

Ordinance #10-17 updates regulations related to excavations in the public ROW.

Ordinance #10-17 eliminates the deposit program for private homeowners. This will result in cost savings for the City in that we will no longer have to track deposits through our system. Professional contractors will continue to be required to post a bond and to provide an insurance certificate in support of their work.

Ordinance #10-17 was discussed and recommended for approval by the City Services Committee at the June 22 meeting.

Required Action by City Council: Approval of Ordinance #10-17 Amending Title 7 of the Code relating to Excavations.

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 10-17**

**AMENDING TITLE 7 OF THE BATAVIA MUNICIPAL CODE RELATING TO
EXCAVATIONS**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
6TH DAY OF JULY, 2010**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 7th day of July, 2010

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 10-17**

**AMENDING TITLE 7 OF THE BATAVIA MUNICIPAL CODE
RELATING TO EXCAVATIONS**

WHEREAS, the City Code currently requires monetary deposits to ensure the satisfactory completion of certain construction work in the public right-of-way; and

WHEREAS, it has been determined that the benefits gained by collecting the deposits are outweighed by the costs associated with administering the deposit program; and

WHEREAS, other methods, such as performance bonds, can be utilized to ensure the satisfactory completion of certain construction work in the public right-of-way at no cost to the City;

NOW THEREFORE, be it hereby ordained by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: Title 7, Chapter 1B of the Batavia Municipal Code is hereby revised and amended to read as follows:

7-1B-1: PERMIT REQUIRED; ISSUANCE:

It shall be unlawful for any person to perform any excavation, boring or construction work in any street, alley or other property owned or leased or otherwise dedicated to the City of Batavia; or to break up any public pavement or sidewalk in the City; or to bore under any street, alley, sidewalk or other City property without first having obtained a permit. Application for such permit shall be made to the Community Development Department.

7-1B-2: BOND AND INSURANCE CERTIFICATE REQUIRED:

No such permit shall be issued unless and until the applicant therefore has filed with the City the appropriate bond and/or insurance certificate as described herein.

For all work performed by a contractor who has received compensation for said work, a bond and insurance certificate must be posted with the City. The bond shall be in an amount equal to the greater of ten thousand dollars (\$10,000.00) or one and one-half (1^{1/2}) times the City Engineer's estimate of cost of said work. The bond shall guarantee completion and performance of said work within the City-owned right-of-way or property. The insurance certificate shall provide the minimum coverage limits as determined on a yearly basis by the City Engineer. The insurance certificate shall name the City as an additional insured or protected party.

If a contractor so elects, he may post with the City a bond in the amount of seventy-five thousand dollars (\$75,000). Said bond shall be held as a guaranty to perform and complete work within City-owned right-of-way or property for a period of one calendar year. The applicant will still be required to obtain individual permits and provide insurance certificates for all such work. For work performed by a property owner for which no compensation is paid to any other party, no bond shall be required.

7-1B-3: BARRICADES AND LIGHTS:

Any person or entity making or maintaining any excavation in any street, alley, sidewalk or other property owned or leased or otherwise dedicated to the City of Batavia shall keep the same adequately guarded by barricades at all times including lighted barricades at nighttime to protect persons and property from injury. Depending on the scope and magnitude of work, the City may require that a traffic control plan be submitted

7-1B-4: MANNER OF EXCAVATING:

Prior to commencing with any excavation or boring, the entity performing the work shall comply with all state and local regulations requiring utilities to be located.

It shall be unlawful to make any such excavation, bore or any construction work in any way contrary to or at variance with the terms of the permit. Proper bracing and shoring shall be maintained for excavations requiring such to prevent the collapse of adjoining ground.

All pipes, cables or conduits shall be protected while performing excavations and borings. In the event of injury or damage, notice shall be given to the entities maintaining any such pipes, cables or conduits, or to the City department charged with the care thereof.

7-1B-5: AREA LIMIT:

It shall be unlawful to render more than one-half ($1/2$) the width of any street unavailable for travel in connection with any excavation or boring pit without prior approval from the City. If any sidewalk shall be blocked by any such work, the City may require a temporary sidewalk, the design of which shall be approved by the City. Such temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users. (1972 Code § 95.335)

7-1B-6: TIME LIMIT:

Each application for a permit shall state the estimated duration of actual construction from the commencement of the work until the restoration of the surface of the ground. It shall be unlawful to fail to comply with this time limit unless permission for an extension of time is granted by the authorized representative of the Community Development Department. All street openings shall be backfilled with CA-6 aggregate in accordance with IDOT Specifications. If required by the City, flowable fill shall be utilized as backfill in accordance with IDOT Specifications. Steel plates may be required to cover open trenches for long-term excavations at the end of each day as directed by the City.

7-1B-7: RESTORING SURFACE:

A. Any person making an excavation or boring in or under any public street, alley, sidewalk or other property owned or leased or otherwise dedicated to the City of Batavia shall restore the surface in accordance with approved plans or as otherwise directed by the City.

7-1B-8: INSPECTION OF EXCAVATIONS:

The Building Commissioner or his authorized representative shall from time to time inspect all excavations, borings or construction areas covered by this permit to enforce the provisions of this Article. Notice shall be given to the Community Development Department at least twenty-four (24) hours before the work of backfilling any excavation or boring pit is commenced. Backfilling shall not commence until the work has been inspected.

7-1B-9: EXEMPTIONS:

The provisions of this Article relating to securing permits shall not apply to officers or employees of the City engaged in doing work for the City; nor shall the provisions of this Article in regard to the bonds apply to persons doing work for the City under a contract where such contract requires a surety bond that embraces directly or indirectly the requirement by the principal on such bond for the restoration of such excavations.

7-1B-10: PENALTY:

Any person who shall be found guilty by a court of competent jurisdiction of violating any provision of this Chapter shall be fined not more than seven hundred and fifty dollars (\$750.00) per day and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 2: This Ordinance shall be in full force and effect upon its passage, presentation and approval according to law.

CITY OF BATAVIA, ILLINOIS ORDINANCE 10-17

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this 6th day of July, 2010.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 6th day of July, 2010.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien	√				Sparks	√			
2	Dietz	√				Wolff	√			
3	Jungels	√				Chanzit	√			
4	Volk	√				Schmitz			√	
5	Frydendall	√				Thelin Atac	√			
6	Liva	√				Clark	√			
7	Tenuta	√				Brown	√			
Mayor Schielke										
VOTE:		13 Ayes	0 Nays	1 Absent	Abstentions					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Heidi Wetzel, City Clerk