

GENERAL ORDINANCE NO. 1.2023

**BEING AN ORDINANCE AMENDING
CHAPTER 7, ARTICLE 5, SECTION 7-96
OF THE WABASH CITY CODE
FOR THE CITY OF WABASH, INDIANA
PROVIDING FOR THE REGULATION OF EXCAVATIONS
IN STREETS, ALLEYS AND SIDEWALKS**

WHEREAS, the City of Wabash owns and is responsible for maintaining streets, alleys and sidewalks in a condition that provides for their use by the public in a manner not likely to cause injury to persons or damage to property; and

WHEREAS, utility facilities such as pipes, wires, conduits, meters, poles, and other supporting equipment and property are often located in, under or adjacent to city streets, alleys and sidewalks; and

WHEREAS, the maintenance of said utility facilities often require the excavating, digging, or other disturbance of the City's streets, alleys or sidewalks, and

WHEREAS, Chapter 7, Article 5, Section 7-96 provides regulations governing the excavating, digging or other disturbance of the City's streets, alleys, and sidewalks; and

WHEREAS, the regulations found in 7-96 have been found to be inadequate;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Wabash, Indiana that Chapter 7, Article 5, Section 7-96 be amended as follows:

SECTION 1. Subparagraph "b." shall be deleted in its entirety and replaced with the following:

b. Permits.

1. No person shall excavate, cut or make any holes in the surface of any street, alley, sidewalk or curb, hereinafter referred to as "cuts," without first obtaining a permit from the Office of the Building Commissioner for the City of Wabash, or, in his absence, the Department Head for the Wabash City Street Department.
2. In the case of an emergency, a public utility may do a cut without first obtaining the required permit, but said public utility shall apply for such a permit as soon as possible after making any such emergency cut but in no event later than two business days after making the initial cut.
3. Any person who fails to get a permit as required by this subparagraph may be fined \$250.00 for the first offense, \$500.00 for the second offense, and \$500.00 plus \$100.00 per day for each day since the initial cut for any third or subsequent offense.

SECTION 2. There shall be inserted a new subparagraph “c.” that reads as follows:

c.

Method of cutting. Any work done in a hard surface must be saw cut prior to any excavation to minimize damage to adjacent and nearby surfaces. A \$1,000.00 fine will be issued for each cut not made in compliance with Section 2.c.

SECTION 3. Old subparagraph “c.” shall be deleted in its entirety and a new subparagraph “d.” shall be inserted in its place which shall read as follows:

d.

Repairing hard street and sidewalk surfaces.

1. Any person or entity who cuts shall be required to repair the cut using a person or entity approved by the Wabash City Board of Public Works and completing the repair as provided for in subparagraphs (e), (f), (g) and (h) hereafter.

2. Any person or entity, including a public utility, who does a cut, whether with or without a permit, shall assume all liability for injury to the public caused by the cut and shall be responsible for any additional repairs to the hard surface, except when those repairs are directly attributable to the actions of a third party, until the earlier of one (1) year or the person or entity has received a release from the Wabash Board of Public Works and Safety.

SECTION 4. Old subparagraph “d.” shall be re-lettered as subparagraph “e.”

SECTION 5. Old subparagraph “e.” shall be deleted and new subparagraph “f.” shall be inserted in its place which shall read as follows:

f.

Backfill material.

1. Cuts shall be backfilled in accordance with the Indiana Department of Transportation (INDOT) Standards and Specifications, Section 402. This work shall consist of one or more courses of HMA base, intermediate, surface mixtures or other miscellaneous HMA applications, produced from an INDOT certified HMA plant, in accordance with Indiana Test Method (ITM) 583.

2. Streets and alleys shall be backfilled with #53 limestone (white only) to within 6” of surface. The stone shall be #53 only and no spoils shall be allowed in backfilling a street or alley. The #53 stone shall be mechanical compacted in no more than 12 inch lifts. Asphalt material shall be virgin material only with 4.5 inches of 19mm HMA Intermediate compacted in two lifts and 1.5 inches of 9.5 HMA surface. For hard surfaced streets or alleys, material shall consist of asphalt

with 10"- #53 limestone base, 4 ½"- 19 mm HMA Intermediate in two lifts, and a 1 ½"- 9.5mm HMA Surface. Only virgin material shall be used. Proof roll subbase and aggregate base with a City representative present. Cuts deeper than 10" must be compacted with #53 stone applied in 12" lifts. Final repair requires inspection and approval by a City representative.

3. For any curbs or sidewalks, material shall consist of poured concrete. Final repair requires inspection and approval by a City representative.

4. Repairs to cuts are to be complete within 30 days of the initial cut.

5. Temporary surface restoration may be made utilizing bituminous cold mix (cold patch) to the top of the cut, with the same being compacted by a mechanical tamper. A surface restoration to a cut made between November 10 of a year and April 1 of the following year, may be made with temporary surface restoration; however, a permanent surface restoration must be completed within 61 days after April 1 (by June 1). Any cut so repaired shall be permanently repaired by removing the cold mix to a depth of at least 1.5 inches below the adjoining road surface and permanently repairing the cut as set forth in subparagraph 2. above.

6. Any deviation from these specifications in subparagraph "f." must be in writing and approved by the signature of a representative of the Wabash City Street Department.

7. Any repair to a cut which suffers a from a settling, heaving, or cracking shall be photographed with a date and time stamped and then shall be repaired by the Wabash City Street Department. Upon completion of the repair, the Wabash City Street Department shall notify in writing the person, entity or utility responsible for making the cut and the repair of the cut that it is being charged for the repairs made by the Wabash City Street Department, which charges shall be as set forth in subparagraph "i." hereinafter.

SECTION 6 . Old paragraph "f." shall be re-lettered paragraph "g.".

SECTION 7. Old paragraph "g." shall be re-lettered paragraph "h.".

SECTION 8. Old paragraph "h." shall be re-lettered paragraph "i.".

SECTION 9. All prior ordinances or parts thereof inconsistent with any provision of this ordinance are hereby repealed.

This ordinance shall take effect upon its passage by the Common Council

PASSED BY THE COMMON COUNCIL OF THE CITY OF WABASH, INDIANA ____ DAY
OF JANUARY, 2023.

By: _____
John Burnsworth, President of the Common Council

PRESENTED BY ME TO THE MAYOR OF THE CITY OF WABASH ON ____ DAY OF
JANUARY, 2023 AT THE HOUR OF _____ O'CLOCK P.M.

Wendy Frazier, Clerk-Treasurer

THIS ORDINANCE WAS APPROVED AND SIGNED ON THE ____ DAY OF JANUARY,
2023 AT THE HOUR OF _____ O'CLOCK P.M.

Scott A. Long, Mayor

ATTEST:

Wendy Frazier, Clerk-Treasurer