ORDINANCE 2025-04

AN ORDINANCE TO REGULATE THE OPENING, UNDERMINING, AND REPAIRING OF THE PUBLIC STREETS, ALLEYS, UTILITY EASEMENTS, AND ALL OTHER RIGHT OF WAYS OF THE VILLAGE OF ARCANUM, OHIO, AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF AND DECLARING AN EMERGENCY

**WHEREAS;** it has become necessary to effectively regulate street cut permits, openings, and restoration to Public rights-of-way and utility easements; and

**WHEREAS,** the regulations set forth herein are necessary for the immediate preservation of the public peace, property, health, safety, and welfare of the residents of the Village of Arcanum;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Village of Arcanum, Ohio:

**SECTION ONE:** No opening/close through, undermining, or removal of any pavement or surface in any of the public streets, alleys, or other public grounds and easements of the Village of Arcanum, Ohio, shall be undertaken by any person, firm, or corporation until a permit, therefore shall have been issued by the Village Administrator or his designee, unless otherwise hereinafter provided. It may be required that separate permits are required for street, alley, curb, sidewalk, and easement projects.

**SECTION TWO:** The Village of Arcanum shall be responsible for the repairing and repaving of the street, alley, or public grounds of openings made by the Village. 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/Easement Right of Way 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 Village Departments, only a bonded and insured contractor in the State of Ohio shall be allowed to make cuts, openings, and or pavement removal or replacement within a public street, alley, or other public grounds right of ways or easements of the Village of Arcanum. All other replacement of disturbed surrounding areas shall be the responsibility of the permit holder.

**SECTION THREE:** Prior to obtaining a permit, the Contractor shall furnish the Village of Arcanum with the following:

1. A plan, video, and or general specifications showing the proposed location, extent, and nature of the work contemplated on the Right of Way Permit Form D provided by the Village of Arcanum.
2. For those companies, corporations, contractors, or public utilities that, as a matter of necessity, are required to make numerous street/easement openings, the Village of Arcanum 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/Easement Right of Way Payment Schedule in Subsection (e). The balance of the street/easement opening cost shall be due and payable within thirty days of receipt of the invoice.
3. Provide a certificate of insurance as proof of the required coverage, and the Village of Arcanum shall be named as an additional insured on the policy. Adequate coverage is liability arising out of bodily injury person or damage to property in the amount of no less than one million ($1000000), written on a per-occurrence basis.
4. The Village Administrator 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/easement cuts in the Village of Arcanum in order to maintain underground utilities.
5. The applicant shall be required to submit the following payments(s) to the Village of Arcanum. This schedule of fees shall apply to any street/alley surface, curb, sidewalk, and easement. A list of streets and the year they were improved will be maintained and kept by the Village Administrator.

**RIGHT OF WAY PAYMENT SCHEDULE MINOR**

Cost Based Upon a Single Opening

1 Square foot up to 200 Square feet in Area

|  |  |  |
| --- | --- | --- |
| Year of | Cost | Per Sq. Ft. Cost |
| Improvement | 1-20 Sq. Ft. Min. | In excess of 20 Sq. Ft, |
| 1 | $1000.00 | $50.00 |
| 2 | $1000.00 | $50.00 |
| 3 | $1000.00 | $50.00 |
| 4 | $900.00 | $45.00 |
| 5 | $800.00 | $40.00 |
| 6 | $700.00 | $35.00 |
| 7 | $600.00 | $30.00 |
| 8 | $500.00 | $25.00 |
| 9 | $400.00 | $20.00 |
| 10 | $300.00 | $15.00 |
| 11 | $200.00 | $10.00 |
| 12 | $100.00 | $5.00 |
| 13 | $100.00 | $5.00 |
| 14 | $100.00 | $5.00 |
| 15+ | $100.00 | $5.00 |

Example: Excavation of an 8’ x 12’ area in a 4-year-old street

$900 for the first 20 square feet of excavation 96 sq. ft. - 20 sq. ft. = 76 sq. ft.

76 sq. ft. x $45 per sq. ft. = $3,420

$3,420 + $900 = $4,320 total payment

**RIGHT OF WAY PAYMENT SCHEDULE MAJOR**

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

|  |  |  |
| --- | --- | --- |
| Year of | Cost | Per Sq. Ft. Cost |
| Improvement | 1-200 Sq. Ft. Min. | In Excess of 200 Sq. Ft. |
| 1 | $10,000.00 | $50.00 |
| 2 | $10,000.00 | $50.00 |
| 3 | $10,000.00 | $50.00 |
| 4 | $9,000.00 | $45.00 |
| 5 | $8,000.00 | $40.00 |
| 6 | $7,000.00 | $35.00 |
| 7 | $6,000.00 | $30.00 |
| 8 | $5,000.00 | $25.00 |
| 9 | $4,000.00 | $20.00 |
| 10 | $3,000.00 | $15.00 |
| 11 | $2,000.00 | $10.00 |
| 12 | $1,000.00 | $5.00 |
| 13 | $1,000.00 | $5.00 |
| 14 | $1,000.00 | $5.00 |
| 15+ | $1,000.00 | $5.00 |

Example: Excavation of a 3’ x 100’ area in a 5-year-old street

$8,000 for the first 200 square feet of excavation 300 sq. ft. - 200 sq. ft. = 100 sq. ft.

100 sq. ft. x $40 per sq. ft. = $4,000

$8,000 + $4,000 = $12,000 total payment

**UNDERMINING/BORNING/TRENCHING OF THE RIGHT OF WAY OF EASEMENTS SCHEDULE**

Right-of-way easements are calculated using the entire easement area for work. They are generally ten (10) feet in width, but the width may vary, calculated by the line of work,

Example: Excavation of a 10’ x 1000’ easement is 10,000 sq. ft.

$500 for the first 5000 sq. ft. of excavation.

$100 for every 1000 sq. ft. of excavation. Thereafter, a minimum of $100 after the first 5000 sq. ft.

 10,000 sq. ft. – 5000 sq. ft. = 5000 sq. ft.

 5000 sq. ft. at $100 = $500

 $500 + $500 = $1000 total payment

f) The following exemptions shall apply regarding the fee set forth in Subsection (e) here of for opening a new or newly unproved 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 construction 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 that 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 refund of up to seventy-five (75%) in the Street/Easement Right of Way Payment Schedule may be applicable for those utilities that demonstrate due diligence in repair, replacement, and or the relocation of their infrastructure prior to street improvement.
	3. The Village of Arcanum shall have the right to waive the Street Opening Cost and exempt a corporation, contractor, or public utility in the case of an opening required as a result of a natural disaster. The Village Administrator shall also have the authority to waive street opening costs due to circumstances beyond the control of the utility involved in such related costs shall be assessed to the contractor or entity responsible for causing the necessity of repair.
	4. Permits must be obtained retroactively for a break in a utility line that may occur after regular business hours and necessitate emergency repairs. Such permits must be obtained within five (5) working days after repair is initiated.

**SECTION FOUR:** 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 Village Administrator regarding the exemption section of this Chapter. The Board of Zoning Appeals shall hear both parties and make a decision based on the information provided. The decision of the Appeals Board shall be binding and final.

**SECTION FIVE:** Should public utilities or contractor(s) that occupy streets, alleys or public grounds, right of ways, and easements fail to complete their project within a reasonable time in the Village of Arcanum, then the Village 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 cost (labor, equipment, and or materials) of restoring said pavement or surface and shall make payment to the Village not later than thirty (30) days from date of invoice.

**SECTION SIX:** 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 repairing, the sizes of the openings to be made, the purpose of the excavation, and such other information as the Administrator may deem necessary for the general health, safety, and welfare of the public.

**SECTION SEVEN:** The Village Administrator shall, from time to time, make rules and regulations governing the opening of public streets, alleys, right of ways, easements, and public grounds and the materials to be used for resurfacing or repairing all openings created by the applicant(s). Such work shall be performed under the supervision of the Street Department of the Village of Arcanum. The permit holder is responsible for immediately backfilling said openings in accordance with the Village's policies and procedures regarding them.

**SECTION EIGHT:** That, each person who shall dig, or cause to be dug, in or adjoining any street, alley, or public ground of any excavation whatsoever, and every person who shall occupy or cause to be occupied any portion of any street within building material, or any obstruction, shall provide sufficient warning lights and barricades to protect pedestrian and vehicular traffic adequately. 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). If the space occupied by such obstruction shall exceed ten feet (10)’ in extent, additional lights shall be posted as aforesaid for every extra ten feet (10’) of excavation obstruction. Such lights shall be kept operating during the hours of darkness or at any time ordinary visibility is obscured. The Administrator or his designee may require additional lights for an excavated area deemed unsafe. In the case of excavations, whether in an adjoining street, alley, or public ground and in case of other open or exposed places within the Village, suitable warning barriers shall be erected to protect against accidents. In addition to this ordinance, all rules and regulations of Construction Standards shall be followed in accordance with Chapter 18 and Chapter 16-Subsection 16.8 of the Village of Arcanum Zoning Code and Ordinance 2020-26 Exterior Property Maintenance.

**SECTION NINE:** Prior to the paving/resurfacing, construction, or reconstruction of any street, alley, or public ground, the Administrator or 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 utility or private utility corporations and Village Departments to repair, replace, relocate, or install all necessary mains, conduits, service lines, and structures. Property owners, public and private utility corporations, and Village departments shall be allowed necessary, reasonable, and legal times required for those above before the new pavement is laid. Thereafter, during the period of three (3) years from after the completion of the new pavement, no new permit for making an opening in such pavement shall be issued by the Village, except by express authority in each case by the Village Administrator, which authority shall be exercised only for reasons of public necessity or of undue hardship, where the necessity for 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/Easement Right of Way Payment Schedule as delineated in Section Three, Subsection (e) of this Ordinance.

**SECTION TEN:** Any person, firm, or corporation violating any of the above provisions of this Ordinance shall be deemed guilty of a minor misdemeanor subject to a fine of up to

$150.00 per offense. Each day of continued violation and each opening made in a street, 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:** For the reasons stated in the Preamble, this Ordinance shall be declared an emergency measure and shall take effect immediately upon its passage.

Passed this 25th day of February 2025.

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 Bonnie L. Millard, Mayor

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Jerry L. Boolman, Council President Pro Tem

 ATTEST:

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 Karen L Deao, Fiscal Officer

First Reading: 02/25/2025

Second Reading:

Third Reading:

Three Reading Rule Waved: 02/25/2025

Emergency Declared: 02/25/2025