

SECTION 940 STREET EXCAVATION

940.01 PERMIT REQUIREMENTS

No individual, firm, corporation or other entity shall hereafter open, lay out, or excavate in or upon any public street within the City of Tonka Bay without first having obtained a permit therefor from the City. For purposes of this ordinance, the term "public street" shall mean the improved, traveled, or surfaced portion of any public right-of-way or roadway.

940.02 PROCEDURE

Any individual, firm, corporation or other entity desiring to open, lay out, or excavate in or upon any public street within the City shall file an application for a permit therefor with the Clerk/Administrator and pay such application fee as the City Council may from time to time prescribe. Such application fee shall be set out in the fee schedule, Section 402.01 of this code. The permit application shall be referred to the Director of Public Works who shall approve or disapprove issuance of the permit, or in circumstances he deems proper, refer the application to the Council for final action. The decision of the Director shall be subject to review by the Council on its own volition or at the request of the applicant at the Council's next regular meeting. The Council's decision thereon shall be final.

940.03 EXCAVATION BOND

Upon approval of an application, the applicant shall deposit with the City, cash in the form of a certified check or a construction bond, in the amount of \$1,000.00 as security for the proper restoration of the street to the condition to which it existed prior to the excavation. If cash is deposited as security, it shall be held for a period of one (1) year to guarantee the restoration work for a period of one year. If a construction bond is used as security, said bond shall guarantee the restoration work for a period of one year. The applicant may then proceed to open up and excavate the street. Restoration of the street must be completed within thirty (30) days after inspection and approval of the connection by the City Inspector. If work is not completed within said thirty (30) days, the City may proceed to do the restoration work and the cost thereof shall be deducted from the cash or claim made against the construction bond. If the restoration work done by the applicant needs repair as determined by the City Inspector during the one-year guaranty period, the applicant shall do all necessary repair work. In the event applicant fails or refuses to do the necessary repair work, the City may do the same and the cost thereof deducted from the cash deposit or claim made against the construction bond. To insure proper restoration in cases deemed necessary by the Director of Public Works, the City at its option may do all restoration of the street and the cost thereof shall be deducted from the cash deposited with the City. In situation where the City opts to do restoration work, the City shall require a cash deposit as the form of security. On completion of

the restoration of the site and the passing of the one-year guaranty period, the cash or the balance thereof remaining shall be refunded to applicant. In the event restoration costs shall exceed the amount of the deposit, the applicant shall be liable for any additional costs.

940.04 EXEMPTIONS

The City or its authorized agents and public utility franchises which furnish electrical, gas or other form of utility service shall be exempt from the permit requirements of this ordinance. In the event, however, that a public utility franchise shall fail to properly restore a public street excavated by it, the City Council may revoke the right of such utility franchise to open, lay out, or excavate in or upon public streets within the City without first complying with the permit requirements set forth herein. Any individual, firm, corporation or person violating the provisions of this ordinance shall be guilty of a misdemeanor.