

CITY OF RANCHO CORDOVA

ORDINANCE NO. 17-2006

AN ORDINANCE OF THE CITY OF RANCHO CORDOVA AMENDING RANCHO CORDOVA MUNICIPAL CODE CHAPTER 12.09, "STREET TRENCH FEE"

WHEREAS, the City Council finds that the maintenance of a trench fee ordinance to establish safeguards to deter poor trench replacement and payment of a fee for loss of pavement life due to trench work in the street is necessary; and

WHEREAS, the City Council finds that the existing Street Trench Fee ordinance provides substantial security for the City which enables quality control of street excavations; and

WHEREAS, the City Council finds that modifications to the ordinance are necessary in order reflect cost inflation and improve effectiveness.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1: Rancho Cordova Municipal Code Chapter 12.09, "Street Trench Fee" is hereby amended to read as follows:

"Chapter 12.09 STREET TRENCH FEE

12.09.010 Title.

12.09.020 Definitions.

12.09.030 Trench Restoration Fee.

12.09.040 Establishment of Fund.

12.09.050 Relocation of Utilities Required by City.

12.09.060 Permit Violations.

12.09.070 Pavement Condition Index Ratings.

12.09.080 Pavement Life Performance Warranty.

12.09.100 Publicly Bid City Plans, Field Changes and Blanket Permits.

12.09.110 Coordination of Excavations.

12.09.120 Moratorium.

12.09.130 Excavation Within Moratorium Period.

12.09.140 Joint Excavation.

12.09.150 Non-Transferability of Pavement Life Warranty.

12.09.160 Appeal.

12.09.170 Severability.

12.09.010 Title.

This ordinance shall be known as the "Street Trench Fee" ordinance.

12.09.020 Definitions.

For purposes of the Chapter, the following definitions apply:

"Applicant" shall mean any owner who has submitted an application for a permit to excavate.

"Chapter" shall mean this Chapter 12.09 of Title 12 of the City of Rancho Cordova Code.

"City" shall mean the City of Rancho Cordova.

"City street" shall mean any public highway, road, street, avenue, alley, lane, drive, way, place, court or trail, which has been accepted, or is hereafter accepted, by the City of Rancho Cordova into the City road system pursuant to Section 1806 of the California Streets and Highways Code.

"Department" shall mean the Public Works Department.

"Director" shall mean the Public Works Director or his or her designee.

"Excavation" shall mean any opening in the paved surface or subsurface of the public right-of-way.

"Facility" or "Facilities" shall mean any and all cable, cabinets, ducts, conduits, converters, equipment, drains, handholds, manholes, pipes, pipelines, splice boxes, surface location markers, tunnels, utilities, vaults, wells, and other appurtenances or tangible things that are located or are proposed to be located in the public right-of-way.

"Owner" shall mean any person, including any agency, department, or subdivision of the City, who owns any facility or facilities that are or are proposed to be installed or maintained in the public right-of-way.

"Permit" or "permit to excavate" shall mean a permit to perform an excavation as it has been approved or may be amended or renewed by the Department.

"Person" shall mean any natural person, corporation, partnership, or any governmental agency, department, or subdivision of the County, or the State of California, or United States of America.

"Public right-of-way" shall mean the paved area across, along, beneath, in, on, over, under, upon, and within the City streets, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the Public Works Department.

"Resurfacing" shall mean any repaving, overlay, seal or reconstruction which constructs a new pavement surface of greater than one inch thickness over the entire width of the street, excluding crack seals, not including micropaving, Class 1 to 3 slurry seals, cape seals, and chip seals.

"Trench Influence Area" shall mean an area three feet adjacent to the trench where the excavation occurs for trenches with four feet or greater of cover over the utility facility from the paved surface, and one and one-half feet adjacent to the trench where the excavation occurs for trenches with less than four feet of cover over the utility facility from the paved surface.

12.09.030 Trench Restoration Fee.

At the time any permit is issued, improvement plan approved, or work performed that causes an excavation of a paved City street, the applicant shall pay a trench restoration fee, in addition to the fee required by the encroachment permit or other administrative fees. The fee shall be in the amount set forth on the Trench Cut Fee Schedules set forth below, or such other amount as may be established by resolution of the City Council. A trench restoration fee shall not be required for the following excavations:

- a. In a City street that the City has scheduled for resurfacing either during the fiscal year (July 1—June30) when the excavation permit is issued or during the immediately following fiscal year;
- b. In a City street where the pavement condition index (PCI), as defined by the City's Pavement Management System, is less than 25 on the date the excavation permit is issued;
- c. For work performed by and for the City Public Works Department;
- d. For potholing to verify utility depth or location;
- e. Where work will include resurfacing of all of a significant portion of the City street where the excavation is made provided that the Director approves the resurfacing;
- f. Made for a utility relocation required by the City to accommodate a proper governmental use of a City street;
- * [g. For owners possessing a valid pavement life performance warranty agreement with the City as set forth in Section 12.09.080;
- h. Trenchless excavations greater than three feet in depth of cover over the utility facility not requiring a significant surface incision greater than industry bore pit standards may be excluded at the discretion of the Director.

**TRENCH CUT FEE SCHEDULE
FOR TRENCHES LESS THAN 4 FEET DEEP**

Major Streets ¹ or all streets within 5 years of construction or structural overlay	PCI between ²	100	and	70	\$4.83 per S.F. longitudinal \$9.67 per S.F. transverse
Major	PCI between	69	and	26	\$2.73 per S.F. longitudinal \$5.46 per S.F. transverse
Major	PCI between	25	and	0	NO FEE
Other	PCI between	100	and	70	\$2.99 per S.F. longitudinal \$5.98 per S.F. transverse
Other	PCI between	69	and	26	\$1.46 per S.F. longitudinal \$2.93 per S.F. transverse
Other	PCI between	25	and	0	NO FEE

¹Major = thoroughfare and arterial roads as defined by the City Improvement Standards

²PCI = Pavement Condition Index

Fees do not apply to area outside of the vertical projection of the trench in a "T" cut restoration

Longitudinal = Trench mostly parallel to the centerline of the ramp

Transverse = Trench mostly perpendicular to the centerline of the road

**TRENCH CUT FEE SCHEDULE
FOR TRENCHES 4 FEET DEEP OR GREATER**

Major Streets ¹ and streets within 5 years of construction or structural overlay	PCI between ²	100	and	70	\$7.33 per S.F. longitudinal \$14.66 per S.F. transverse
Major	PCI between	69	and	26	\$4.14 per S.F. longitudinal \$8.28 per S.F. transverse
Major	PCI between	25	and	0	NO FEE
Other	PCI between	100	and	70	\$4.56 per S.F. longitudinal \$9.08 per S.F. transverse
Other	PCI between	69	and	26	\$2.23 per S.F. longitudinal \$4.46 per S.F. transverse
Other	PCI between	25	and	0	NO FEE

¹Major = thoroughfare and arterial roads as defined by the City Improvement Standards

²PCI = Pavement Condition Index

Fees do not apply to area outside of the vertical projection of the trench in a "T" cut restoration

Longitudinal = Trench mostly parallel to the centerline of the ramp

Transverse = Trench mostly perpendicular to the centerline of the road

12.09.040 Establishment of Fund.

All monies paid to the City pursuant to Section 12.09.030 shall be deposited in a special fund or funds and shall be expended only for the resurfacing, maintenance, administration, and protection of City streets where excavation has occurred after the effective date of adoption of this Ordinance.

12.09.050 Relocation of Utilities Required by City.

No Fee or requirement authorized or imposed pursuant to this Chapter shall be construed to affect or alter in any way any obligation of public and private utilities with facilities installed in any City street to relocate the facilities at no cost to the City, in the event that relocation is required by the City to accommodate a proper governmental use of the City street.

12.09.060 Permit Violations.

No person who has violated any provision of this Chapter shall be issued an excavation permit, nor shall any contractor or agent apply for or be issued an excavation permit on such person's behalf, until the outstanding violation is corrected or a plan for correction is approved by the Director. The foregoing requirement is in addition to any penalty or remedy for violation that may be imposed or sought by the City at law or equity.

12.09.070 Pavement Condition Index Ratings.

The City shall perform periodic pavement condition surveys of all City streets and determine the pavement condition index (PCI) rating for each street. A PCI rating shall be assigned to discrete blocks of a street. The PCI report shall be made available for public review at the permit counter.

12.09.080 Pavement Life Performance Warranty.

In lieu of paying a trench restoration fee pursuant to Section 12.09.030, an owner who has a valid franchise agreement with the City or is statutorily exempt from franchise requirements shall provide a written pavement life performance warranty in a form acceptable to City. The warranty shall provide that in the event that subsurface material or pavement over or within the trench influence area becomes depressed, broken, or otherwise fails at any time after the excavation has been completed until such time as the street surface is completely resurfaced with a structural overlay, the owner who performed the trench cut shall repair or restore such condition pursuant to the procedure set forth in Section 12.09.090. In the event that an owner who has a valid franchise agreement with the City or is statutorily exempt from franchise requirement fails or refuses to provide a written pavement life performance warranty, such owner shall pay the trench restoration fee set forth in Section 12.09.030.

12.09.090 Repair of Sunken Pavement Over Excavation.

If the subsurface material or pavement over or within the trench influence are becomes depressed or broken at any time within two years (2) after the excavation has been completed and accepted and before resurfacing of the City street, where the owner has paid a trench restoration fee pursuant to Section 12.09.030, or (2) at any time prior to such time as the street surface is completely resurfaced with a structural overlay, where the owner has provided a pavement life performance warranty pursuant to Section 12.09.080, the owner shall, upon written notice from the Director, immediately inspect the depressed or broken area to ascertain the cause of the failure. The owner shall make repairs to the installation or backfill and have the pavement restored in the manner and within the time period specified by the Director. Additional inspection permit fees may be imposed as appropriate. A trench restoration fee shall not be charged for work performed under this Section. If the pavement is not restored as specified by the Director, unless delayed by conditions beyond the owner's control, the Director may cause the work to be done after giving the owner twenty-four (24) hours final notice. The cost thereof, including any inspection costs and administrative overhead incurred by the City, shall be assessed against the owner. The owner shall remain responsible for any future repairs of that portion of pavement over the excavation that was repaired by the City for a period of two years, where the owner has paid a trench restoration fee pursuant to Section 12.09.030, or at any time prior to such time as the street surface is completely resurfaced with a structural overlay, where the owner has provided a pavement life performance warranty pursuant to Section 12.09.080.

12.09.100 Publicly Bid City Plans, Field Changes and Blanket Permits.

Publicly bid City plans, field changes that alter the square footage of the trench surface area and blanket permits issued by the Director to any owner to make excavations for utility service connections, for the location of trouble in utility conduits or pipes and for making repairs thereto, or for emergency purposes shall be subject to all fees and requirements of this Chapter. The owner shall report the amount of excavation to the permit counter and pay the required fees. Failure to report the excavation and pay the required fees shall be considered a permit violation pursuant to Section 12.09.060.

12.09.110 Coordination of Excavations.

Any owner installing facilities providing water, sewer, storm water drainage, gas, electric, communication, video or other utility services in City streets shall participate in the American Public Works Association ("APWA") Utility Committee and prepare a utility master plan, in a format specified by the APWA Utility Committee, that shows all of the owner's planned major utility work in City streets for the upcoming year. Prior to applying for an excavation permit, any owner planning to excavate in City streets shall coordinate, to the extent practicable, with other owners to minimize damage to, and avoid undue disruption and interference with, the public use of City streets.

12.09.120 Moratorium.

Excavation in newly renovated City streets is prohibited for five (5) years after filing of a notice of completion or acceptance of a new street or structural overlay of an entire street except as follows:

- a. Emergency which endangers life or property.

- b. Repair or modification to prevent interruption of essential utility service.
- c. Relocation work that is mandated by City, County, State or Federal legislation.
- d. Service for buildings where no other reasonable means of providing service exists, as determined by the Director.
- e. In a City street that the City has scheduled for resurfacing either during the fiscal year (July 1 – June 30) when the excavation permit is issued or during the immediately following fiscal year and the work takes place prior to the resurfacing.
- f. For potholing to verify utility depth or location.
- g. Trenchless excavations greater than three feet in depth of cover over the utility facility not requiring a significant surface incision greater than industry bore pit standards may be allowed at the discretion of the Director.
- h. Other situations deemed by the Director to be in the best interest of the general public.

12.09.130 Excavation Within Moratorium Period.

Where a permit is issued to excavate during the five (5) year period after filing of a notice of completion or acceptance of a new street or structural overlay of an entire street, payment of the trench restoration fee described in Section 12.090.030 will be required regardless of whether the owner has executed a pavement life performance warranty.

12.09.140 Joint Excavation.

Whenever applicants propose major work in the same block, the Department shall condition permits for such work in a manner that maximizes coordination and minimizes the total period of construction. Such work may be conditioned to require the applicants to participate in a single excavation and pay their pro rata share of the work. Applicants may seek a waiver of the joint excavation requirements with respect to a particular excavation. Within thirty (30) calendar days of receipt of a written request for a waiver, the Director shall render a decision upon such a request, taking into account the impact of the proposed excavation on the neighborhood, the applicant's need to provide services to a property or area, facilitating the deployment of new technology as directed pursuant to official City policy, and the public health, safety, welfare, and convenience.

12.09.150 Non-Transferability of Pavement Life Warranty.

Pavement life warranty agreements are not transferable or assignable.

12.09.160 Appeal.

A person directly and adversely affected by a decision made by the Director pursuant to the provisions of this Chapter may appeal the Director's decision by filing a written notice of appeal with the City Manager no later than ten (10) working days after receiving notice of the Director's decision. The notice of appeal shall set forth the name, mailing address, and telephone number of the person appealing. The notice of appeal shall include or attach a statement describing the

action being appealed, setting forth the grounds for the appeal, and describing the action requested of the City Manager. The scope of the appeal shall be limited to the grounds specified in the notice of appeal. No later than thirty (30) days after the filing of a timely noticed of appeal, the City Manager shall render a decision on the appeal. The City Manager's decision may affirm, reverse or modify the decision appealed. A copy of the City Manager's decision shall be provided to the person appealing at the address shown on the notice of appeal. The City Manager's decision shall be final.

12.09.170 Severability.

Should any part of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions of this ordinance shall remain in full force and effect."

Section 2: Effective Date and Publication of Ordinance Summary

This Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk of the City of Rancho Cordova shall cause a summary of the Ordinance to be posted in accordance with Section 36933 of the Government Code of the State of California.

PASSED AND ADOPTED this 15th day of May, 2006, by the following vote:

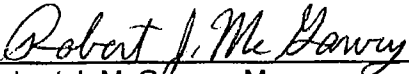
AYES: Budge, Cooley, Sander, Skoglund, McGarvey

NOES: None

ABSENT: None

ABSTENTIONS: None

APPROVED:


Robert J. McGarvey, Mayor

ATTEST:


Lillian Hare, City Clerk