

**TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
ORDINANCE 23-04**

AN ORDINANCE AMENDING CHAPTER 87 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, CONCERNING EXCAVATIONS, BY AMENDING SECTIONS 87-4, CONCERNING EXCAVATION PERMIT APPLICATIONS; 87-5, CONCERNING FEES AND BONDS, 87-7, CONCERNING PERFORMANCE REQUIREMENTS; AND 87-19, CONCERNING EMERGENCY EXCAVATIONS.

WHEREAS, the Town of Frisco, Colorado ("Town") is a home rule municipality, duly organized and existing under Article XX of the Colorado Constitution; and

WHEREAS, this ordinance is adopted pursuant to the Town's home rule authority in order to protect the public health, safety and welfare by regulating the activity of utility excavations within public and private property in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO THAT:

Section 1. Section 87-4 of the Code of Ordinances of the Town of Frisco (the "Code"), concerning excavation permit applications, is hereby amended to read as follows:

§ 87-4. Permit Applications.

Except for permits issued for excavation at a depth of three feet or less for shallow utility installations wholly contained within private property, excavation permits will be issued only on or after April 15 and on or before October 15 of each calendar year. Applications for an excavation permit will not be accepted after October 14, and all excavations must be completed and closed and restored to their prior condition by October 31 of the calendar year in which the excavation permit was issued except excavations on wetlands and waterways where the Town Manager or ~~his~~ the Manager's designee determines that excavation after October 31 is necessary to preserve the integrity of such wetlands. Except as otherwise expressly provided in this chapter, each and every application for an excavation permit shall be made in writing to the Public Works Office Manager and will be accepted only between 9:00 a.m. and Noon and between 2:00 p.m. and 4:00 p.m., Monday through Friday, or by appointment. An application for an excavation permit shall: (i) be made only by the person or entity that will actually perform the excavation work for which the permit is sought; (ii) be made prior to commencement of the work; and (iii) include the required performance bond before it may be issued.

The permit application form is available at the office of the Public Works Office Manager and the applicant shall provide at least the following information:

- A. The applicant's name, address, ~~and~~ telephone number and business license number;

- B. The date of application, and an estimated time schedule for the work, including the time period during which the proposed excavation is to be left open and the work incomplete;
- C. The location, size, width, length and depth of the proposed excavation and address, if any, of the work ;
- D. A description of the work including the type of work, the traffic controls proposed (if applicable), and cut information ~~The type of (surface to be cut);~~
- E. The purpose of the excavation or scope of work to be performed;
- F. ~~—The estimated time schedule, including the date the pavement will be broken, the date the excavation will be backfilled and the date of final repair; and~~
- G. ~~—All streets, alleys, sidewalks and other public property which will be affected by the excavation.~~

All permits issued shall be kept and maintained by the applicant for two (2) years after the work is performed. Every applicant shall agree, in making the application for a permit, to be bound by all provisions of this chapter. All applications for a permit shall be accompanied by a set of plans showing in detail: (1) the location, size, and type of installation for the excavation; and (2) a traffic control plan.

Section 2. Section 87-5 of the Code, concerning fees and bonds for excavation permits, is hereby amended to read as follows:

§ 87-5. Fees and Bonds.

- A. Upon application for an excavation permit, the applicant shall pay to the Town a permit fee in the sum of ~~one~~ two hundred dollars (\$~~1200~~) to cover the cost of administration, initial inspection, locates and final inspection.
- B. No permit to excavate in any street, alley, sidewalk or other public place within the town shall be issued unless the applicant therefor shall have paid and provided to the Town, at the time the application is made, the required fee and bond based on the following schedule and complied with the issuance requirements herein. Any part of the following schedule notwithstanding, the minimum amount of any performance bond required hereunder shall be one thousand dollars (\$1,000). A ~~maintenance~~ performance bond shall be posted with the office of the Public Works Office Manager in the following amounts:

- 1. Excavation ~~maintenance~~ performance bond.

a. In dirt and gravel: ~~five~~ one hundred dollars (\$~~50~~100) per square yard or portion thereof [formula used: width times length times depth in feet, divided by nine (9) times the fee equals the bond amount].

b. In asphalt: ~~one~~ two hundred fifty dollars (\$~~100~~250) per square yard, or portion thereof [formula used: width times length times depth in feet, divided by nine (9) times the fee equals the bond amount].

c. In concrete: ~~one~~three-hundred fifty dollars (\$~~1~~350) per square yard, or portion thereof [formula used: width times length times depth in feet, divided by nine (9) times equals the bond].

C. ~~Upon completion of the work, excavation backfill, pavement and cleanup in accordance with this chapter and upon inspection by the Public Works Director or his or her designee and notice that all requirements have been met and subject to the provisions of this Paragraph C and Paragraph F, the holder of the permit shall be refunded, after a two-year warranty period, the full amount of the bond. The Permittee is required to restore any excavation on public rights-of-ways to an acceptable temporary condition within twenty-four (24) hours after commencing the excavation, and to complete the permanently repair and restoration of such excavation within twenty ten (210) days of commencing the excavation. As used in this subsection, an "acceptable temporary condition" shall mean a temporary pavement patch that will allow for safe access and travel and that consists of either cold mix/patch asphalt, flowable fill/flow-fill concrete, or class 6 (3/4 inch) road base that has been approved as a part of the excavation permit. Prior to the permanent repair, permittee is required to maintain the excavated area. No asphalt/concrete cut shall be left without a permanent repair after October 31. In the event an asphalt/concrete cut is not permanently repaired by October 31, the permittee shall forfeit the bond to the Town shall be entitled to payment under the bond upon demand and without additional notice hereunder and the Town may shall perform the repair or cause the repair to be made.~~

D. All applicants shall submit with the application a certificate of insurance coverage verifying at least one million dollars (\$1,000,000) of personal injury and property damage coverage, if such work requires excavation or other construction activity within public rights-of-way or easements.

E. Other than as set forth herein, there shall be no additional fee for the permit. If the permit is denied, the fee shall not be refunded.

F. The Public Works Director or ~~his or her~~ the Director's designee may at any time during the two (2) year warranty period for the work, excavation backfill, pavement, concrete or clean up, require the permittee to perform remedial work if the Public Works Director or ~~his or her~~ designee finds the work, excavation backfill, pavement, concrete or cleanup to be in noncompliance with this chapter. In such instance, the Public Works Director or ~~his or her~~ designee shall give written notice to the permit holder, sent by registered mail, to the address shown on the bond, as to the action required. The permittee shall complete the required action within fifteen (15) days of the date of mailing of the

written notice. If the required action is not completed by the fifteenth (15th) day after mailing of the written notice:

1. The Public Works Director or the Director's ~~his or her~~ designee may initiate the required action; and
2. The Town is entitled to payment under the bond or any portion thereof and such payment shall be immediately made to the Town upon the request of the Public Works Director or the Director's ~~his or her~~ designee.

The Town's right to demand payment under the bond shall not be limited by the fact that the required action for which the payment is demanded cannot, during the fifteen day cure period or at the time of payment, be practically completed due to adverse weather conditions or any other cause. The permittee shall be solely responsible for such repair or replacement and the Town shall not be required to make any demand of permittee's agents, employees, contractors or subcontractors with respect to such required action.

G. Upon completion of the work, excavation backfill, pavement and cleanup in accordance with this chapter and upon inspection by the Public Works Director or the Director's designee and a determination that all requirements have been met, including but not limited to the requirements of subparagraphs C and F above, the holder of the permit shall be refunded, after a two-year warranty period, the full amount of the bond, or the bond shall be released.

Section 3. Subsection 87-7.D. of the Code, concerning performance requirements for excavations, is hereby amended to read as follows:

D. Excavated material shall be stored in neat, compact piles and erosion control techniques shall be used as necessary to prevent materials from being scattered by wind, rain, traffic or other means. Such techniques shall be in accordance with the Colorado Department of Transportation's Erosion Control and Stormwater Quality Guide, as amended from time to time, and the Northwest Colorado Council of Government Water Quality Protection Standards, as amended from time to time, and pertinent provisions of the Town's Unified Development Code, as amended from time to time. In the event of any conflict between the foregoing standards and regulations, the most restrictive provision shall apply. If excavated materials are approved for storage in a roadway, traffic control measures approved by the Public Works Director or his or her designee shall be taken to protect the traveling public.

Section 4. Subsection 87-19 of the Code, concerning emergency excavations, is hereby amended to read as follows:

§ 87-19. Emergencies.

At any time that, in the opinion of the Town Manager or ~~his or her~~ the Manager's designee, an emergency exists that threatens public health, safety or welfare, an emergency permit may be granted without written application for the permit having been made in advance of the work. After such a permit has been granted, the permittee responsible or the person actually performing the work shall by telephone notify and so advise all public and private entities on the list maintained by the Public Works Office Manager of the emergency work and shall verbally furnish the information provided on the form therefore. A written record of the verbal advisement shall be maintained by the person actually making the telephone notification for two (2) years after said work is performed. Within three (3) business days after the issuance of an emergency permit, the permittee shall report back to the Public Works Office Manager and complete an application for excavation permit in full.

Section 5. Effective Date. This ordinance shall become effective in accordance with the home-rule Charter of the Town of Frisco, Colorado.

INTRODUCED, PASSED ON FIRST READING AND PUBLICATION AND POSTING
ORDERED THIS FOURTEENTH DAY OF FEBRUARY, 2023.

ADOPTED ON SECOND AND FINAL READING AND PUBLICATION BY TITLE
ORDERED THIS TWENTY-EIGHTH DAY OF FEBRUARY, 2023

TOWN OF FRISCO, COLORADO:

Hunter Mortensen, Mayor

ATTEST:

Stacey Nell, Town Clerk