

ORDINANCE  
REGULATING DIGGINGS AND EXCAVATIONS IN THE STREETS/THOROUGH-  
FARES IN QUEZON CITY AND REQUIRING A CASH DEPOSIT OR PERFOR-  
MANCE BOND FROM CONTRACTORS WHO DIG AND EXCAVATE IN CITY  
STREETS AS A GUARANTEE FOR RESTORATION AND PROVIDING PENAL-  
TIES FOR VIOLATION/S THEREOF.

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Introduced by Councilor Alberto M. Galarpe  
and Vice Mayor Charito L. Planas.  
Sponsored by Councilors Reynaldo A. Calalay,  
Emilio G. Tamayo, Antonio L. Sioson,  
Moises S. Samson, Victor V. Ferrer, Jr.,  
Connie S. Angeles, Eufemio C. Lagumbay,  
Melencio M. Castelo, Godofredo T. Liban,  
II., Ma. Fresca M. Biglang-Awa, Reynaldo  
N. Medina, Antonio V. Hernandez (Anthony  
Alonzo), Marciano P. Medalla, Herbert  
M. Bautista, Michael T. Defensor, Franz  
S. Pumaren, Cesar A. Dario, Jr., Guillermo  
C. Altuna, Joseph Peter S. Sison, Bayani  
V. Hipol, Alfredo A. Francisco (Fred  
Montilla), Ramon G. Mathay, Herminio  
"Butch" C. Bautista, Roberto A. Miguel and  
Wencerom C. Lagumbay.

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WHEREAS, numerous diggings and excavations have been left unattended and/or haphazardly filled up, thus leaving unsightly ruts, potholes and lumps in major thoroughfares/streets of the City which pose continuing threat to safety of both motorists and pedestrians, contribute to and/or aggravate traffic congestion/s recurrent floods and set back whatever progress the government has achieved in this area;

WHEREAS, in order to protect and endure public safety and avoid deterioration of streets, it has become imperative to regulate excavation in public places and provide a system of restoration and require a cash deposit or performance bond from contractors;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN SESSION ASSEMBLED:

SECTION 1. Excavation defined - Excavation shall be defined as any digging or unearthing in the streets/thoroughfares including passageways and sidewalks within the City for the installation, repair or improvement of water pipes, telephone or telegraph wires or cable conduit, sewer and drainage pipes, communication powerlines undertaken by the government/public utility companies.

SECTION 2. Applications, Filing of - Applications for authority to undertake diggings and excavations except those for individual building connections shall be filed with the City Engineer of Quezon City who shall act on the same within five (5) working days after submission of all requirements.

SECTION 3. Permit, Conditions for - The permit to undertake excavations/diggings shall contain, among other things, such conditions:

- (a) All such diggings/excavations shall be in accordance with the excavation and installation plans as approved by the City Engineer;
- (b) All applicants before undertaking diggings and excavations in Quezon City shall be required to provide a cash deposit or performance bond equivalent to the cost of the restoration of streets to be dug or excavated;
- (c) Such other conditions as may be necessary to ensure public safety and convenience;
- (d) The corresponding permit number shall be conspicuously posted at the excavated area.

SECTION 4. Supervision, Exercise of - Except for individual building connections, all diggings and excavations shall be under the supervision of the project engineer of the contractor and the duly authorized representative of the City Engineer's Office. However, such diggings and excavations shall be subject to the inspection of the City Engineer or his authorized representative to ensure compliance with the installation plans and other conditions in the permit.

SECTION 5. Fees and Charges, Payment of - The following fees and charges shall be collected from all applicants whether private or government agencies except those specifically exempted by law, who shall make, or cause to be made, any excavation or digging on any street and thoroughfare, including passageway and sidewalk within the City;

- 1. Processing Fee
  - a) For poles and house connections.....P20.00
  - b) For all other excavations..... 50.00
- 2. Excavation Permit Fee
  - a) For 50 lineal meters or less.....P200.00
  - b) Over and above 50 lineal meters..... 10.00/lineal meter
- 3. Deposit for Restoration work

The amount to be deposited for restoration shall be based on the following schedule:

Per Square Meter Fraction Thereof

- a) Concrete-paved streets.....P500.00
- b) Asphalt-paved streets..... 300.00
- c) Macadam-surfaced street.....200.00
- d) Concrete sidewalk.....400.00



- F) Earth Sidewalk.....100.00
- g) Combination of concrete curbs and gutters: for every lineal meter of fraction thereof, 300.00
- h) Concrete curbs: for: for every lineal meter of fraction thereof;.....200.00

If the excavator/permittee shall undertake the restoration of the damaged portion of the streets/thoroughfares/passageways, a performance bond acceptable to the City Engineer's Office shall be posted in lieu of the restoration deposit.

4. Maintenance Deposit

The excavator/permittee shall deposit to the City Engineer's Office the equivalent amount based on the following schedules which shall be used to maintain for a period of one (1) year the restored excavated portions of the right-of-way.

A. On road pavements:

Per Sq. M. or Fraction Thereof

- 1. On macadam.....P100.00
- 2. On asphalt..... 200.00
- 3. On concrete.....300.00

B. On sidewalks:

- 1. Asphalt.....100.00
- 2. Concrete.....200.00
- 3. Others..... 40.00

C. On curbs and gutters..... 60.00

5. Installation of wooden, concrete and steel utility poles, excavations permit fee per pole..... 40.00

SECTION 6. Excavation Affecting Adjoining Properties -

1.. Temporary support of adjoining property - The person causing any excavation to be made shall provide such sheet piling and bracing as may be necessary to prevent materials or structures of adjoining property from caving in before permanent support have been provided for the sides of an excavation.

2. Permanent support of adjoining property - whenever provisions are not made for the permanent support of the sides of an excavation, the person causing such excavation to be made shall construct an appropriate retaining wall which shall be carried to a height sufficient to retain the soil of the adjoining area.

3. Entrance to adjoining premises - For the purpose of providing temporary support to adjoining premises, the person causing an excavation to be made shall get the consent of the owner of the adjoining premises to enter and construct the temporary supports. However, if such consent and entrance are not granted, the owner of adjoining premises shall be responsible for providing the necessary supports, as the case may be, to his premises at his own expense, and for that purpose, he shall be given authority to enter the premises where the excavation is to be made.

SECTION 7. Excavation affecting Adjoining Structures -

1. Excavations more than four (4) feet deep - Whenever an excavation is carried to the depth of more than four (4) feet long below the curb, the person causing the excavation to be made shall at all times, if granted the consent of the owner adjoining structures to enter, at his own expense, preserve and protect from damage all existing structures, the safety of which may be affected by that part of the excavation which extends more than four (4) feet below the curb line. He shall support such structure by proper foundation. If the owner's consent to enter is granted to the person causing the excavation to be made, it shall be the duty of the owner failing to grant consent to make, provide the necessary foundations, and when necessary for that purpose; such owner shall be given authority to enter the premises where such excavation is to be made,

2. Excavations four (4) feet or less in depth - The person causing the excavation shall preserve the safety of the structures which may be affected by the excavation and protect it from injury and support it by proper foundation (except as otherwise provide in excavation more than four (4) feet deep; and when necessary for the purpose, the owner of the structures shall be given the authority to enter the premises where such excavation is to be made.

SECTION 8. Appropriate Markers and Guards -

1. The diggings and excavations mentioned in Section One shall be provided with appropriate markers and safety to travelling vehicles and pedestrians. Such markers and safety guards shall carry the identity of the person or agency undertaking the excavation.

2. In the event of death, injury, and/or damages caused by the non-completion of such works and/or failure of the one undertaking the work to adopt the required precautionary measures for the protection of the general public or violation of any of the terms or conditions of the permit, the permittee/excavator shall assume fully all liabilities for such death, injury or damage arising therefrom. In case the City Government shall be held liable by reason of this negligent act or omission of the permittee/excavator, the City Government shall be entitled to full reimbursement, indemnification and subrogation from said permittee/excavator. For this purpose, the excavator/permittee shall purchase insurance coverage to answer for the party liable by

SECTION 9. Insertion Prohibited - All excavations and diggings passing thru canals and insertions through drainage or sewer pipes are strictly prohibited.

SECTION 10. Private Roads, Streets, Thoroughfares and Passageways - The City Engineer or his authorized representative shall have the authority to inspect all diggings and excavations being undertaken on all private roads, streets, thoroughfares including passageways and sidewalks and to require that restoration of the excavated areas meets with the standards specifications as prescribed by the City.

SECTION 11. Time of Payment and Surcharge for Late Payment - The fees imposed in this Ordinance shall be paid to the City Treasurer's Office before the permit to dig or to excavate is issued. Such permit is valid when the official receipt covering payment of the prescribed fees is attached thereto.

A surcharge of twenty-five per centum (25%) of the fees imposed in this Ordinance shall be collected from any person or entity which has already commenced to dig or excavate before the permit has been issued.

SECTION 12. Disposition of Proceeds - Unless otherwise provided, seventy per centum (70%) of all revenues collected except the restoration deposit under this Ordinance shall accrue to the General Fund of the City to be used for operating expenses. The remaining thirty per centum (30%) shall accrue to the infrastructure fund of the City concerned to cover part of the costs of maintenance of the restored streets, sidewalks, curbs, and gutters resulting from said excavations.

SECTION 13. Escalation Clause - Should there be any increase in the cost of labor and/or materials; including the increase in cost of operation and maintenance equipment, upon the recommendation of the City Engineer and subsequent approval of the Mayor a corresponding increase shall be adjusted in the restoration costs listed herein but not to exceed fifty per centum (50%) of the increase in the cost of items and not oftener than once a year.

SECTION 14. Projects and contracts issued by the City Government. In projects and contracts issued by the City Government no final payments shall be made unless a certificate of restoration is issued by the City Engineer.

SECTION 15. Revocation of Permits - Permits issued under this Ordinance may be revoked or cancelled in cases of emergency, when public interest so demands or for non-compliance with the conditions of the permit.

SECTION 16. Penalties - Any person violating any of the provisions of this Ordinance or of its implementing rules and regulations shall upon conviction, be punished by a fine of not less than Four Thousand Pesos (P4,000.00) nor more than Five Thousand Pesos (P5,000.00) or imprisonment of not less than thirty (30) days nor more than one (1) year or both such fine and imprisonment at the discretion of the court. In case of a corporation, partnership or association, the president, general manager or the person-in-charge of the project shall be liable therefor.

SECTION 17. Separability Clause - If any provision or provisions or parts or parts of this Ordinance is declared unconstitutional, such declaration shall not invalidate the other provisions hereof.

SECTION 18. Repealing Clause - All ordinances, rules and regulations or portions thereof which are contrary to or inconsistent with this Ordinance are hereby repealed, amended or modified accordingly.

SECTION 19. Implementing Regulations - The City Engineer shall promulgate such rules and guidelines as may be necessary for the effective implementation of the provisions of this Ordinance.

SECTION 20. Effectivity - This Ordinance shall take effect upon its approval.

ENACTED March 8, 1993.

(SGD.) CHARITO L. PLANAS  
Vice Mayor  
Presiding Officer

ATTESTED:

(SGD.) SOTERO O. LAUDE  
Acting City Secretary

APPROVED: 4-16-93

(SGD.) ISMAEL A. MATHAY, JR.  
City Mayor