

STREETS

ORDINANCE NO. 417

VILLAGE OF BELLEVUE, ILLINOIS

AN ORDINANCE REGARDING
EXCAVATION WITHIN RIGHT OF WAYS

WHEREAS, the Village Board of Trustees has concerns regarding excavation or other similar work performed within Village right of ways;

WHEREAS, Section 11-80-2 of the Illinois Municipal Code (65 ILCS 5/11-80-2) authorizes the corporate authorities of municipalities to regulate the use of streets and other municipal property; and

WHEREAS, the Board has determined that the regulation of excavation and other similar work is necessary for the health, safety and welfare of the Village and its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF BELLEVUE, PEORIA COUNTY, ILLINOIS AS FOLLOWS:

SECTION 1: Notice Before Excavations of Right of Ways

Any person or entity desiring to excavate or perform other similar work within Village right of way shall provide written notice to the Village Board at least two working days prior to the initiation of the work. Such notice shall contain the name and address of the person or entity performing the work, the location of the work and the time when the work will be performed. A plan describing the work shall be attached to the notice. In the case of emergency excavation work, the party performing the work shall give such notice as is practical under the circumstances.

SECTION 2: Liability Insurance and Indemnification

(a) Each person or entity shall be insured against liability for injuries and damages caused by its negligence in an amount appropriate for the operations engaged in, and shall hold the Village free and harmless from all costs and expenses (including attorneys' fees) incurred by the Village as a result of damage and injuries caused by the negligence of the person or entity in the performance of the work.

(b) Exempt from the liability insurance requirements set forth in this section (but not the indemnification provisions) are:

- (1) Public utilities regulated by the state commerce commission.
- (2) Entities holding a franchise from the Village.
- (3) Municipal corporations of the State of Illinois.

SECTION 3: Responsibility for Maintenance

Any person or entity who performs excavation or similar work within Village right of way shall repair any defects and shall, at the conclusion of the work, restore the area to a condition at least as good as the condition prior to the commencement of the work.

SECTION 4: Protective Measures

(a) It shall be the duty of every person or entity performing excavation or similar work within Village right of way to place and maintain barriers and warning devices necessary for safety of the general public, providing that such work is undertaken in a manner which is safe.

(b) The person or entity shall arrange the work area in such manner as to create the least inconvenience possible to the occupants of the adjoining property and to the general public.

SECTION 5: Clearance for Vital Structures

No excavation or similar work within Village right of way shall interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures and all other vital equipment, except as authorized by the Village Board in writing.

SECTION 6: Cleanup

All property shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from the excavation or similar work during (to the extent practical) and after the completion of the work. If the person or entity performing the work fails to perform required clean up work within 24 hours after having been notified to do so by the Village Board, such work may be done by the Village and the cost thereof charged to the entity or person.

SECTION 7: Backfilling

(a) All excavations shall be backfilled using granular material free from lumps, stone, frozen materials and free from animal or vegetable matter; and shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of substructure, backfill material shall be placed to the subgrade of the pavement in lifts. Any excavations in or within two (2) feet of road or curb improvements shall be backfilled using flowable fill.

(b) Broken pavement, large stones, roots and other debris shall not be used as backfill. Such backfill shall be done in a manner that will permit the restoration of the surface to a density not less than that existing prior to excavation.

(c) Whenever the Village Board has reasonable cause to believe that backfilling for any excavation is not being done with acceptable materials or is not being adequately compacted, before resurfacing shall be permitted, the Village Board may require reasonable tests to determine whether or not the backfill material meets the minimum requirements prescribed. All expense for such tests shall be borne by the entity or person.

SECTION 8: Compliance with Laws

The person or entity shall comply with all laws, ordinances, orders, rules and regulations of all municipal, county, state, federal or other governmental authorities applicable to the excavation, including, without limitation, Village Ordinance 274.

SECTION 9: Liability of Village

This ordinance shall not be construed as imposing upon the Village or any official or employee any liability or responsibility for damages to any person injured by the performance of any work under this ordinance, nor shall the Village or any official or employee thereof be

deemed to have assumed any such liability or responsibility by reason of inspections or tests authorized hereunder.

SECTION 10: Covered Parties

The provisions of this Ordinance shall apply to both contractors actually performing excavation work as well as the utility company, property owner or other entity for whom the work is being performed.

SECTION 11: Penalty

Any person convicted of violating any section of this Ordinance shall be fined not less than \$100.00 nor more than \$500.00 and shall be liable to the Village for all costs and expenses necessarily expended by the Village in correcting any injury or damage caused by his violation. Each day that a violation of this Ordinance continues shall be considered a separate violation of this Ordinance.

Passed and approved by the President and the Board of Trustees of the Village of Bellevue, Illinois, this 26th day of SEPT, 1994.

AYES: 6

NAYS: 0

ABSENT: 0

VILLAGE OF BELLEVUE, ILLINOIS

By: _____
Larry N. Howard, President

Attest: _____
Carol S. Howard, Village Clerk