

ORDINANCE NO. 829

VILLAGE OF BELLEVUE, ILLINOIS

AN AMENDED AND RESTATED 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; and

~~WHEREAS, the Village adopted Ordinance No. 757, An Ordinance Regarding the Excavation of Right of Ways, on March 13, 2018; and~~

WHEREAS, the Board has determined that the amendment of Ordinance No. 757 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, THAT VILLAGE OF BELLEVUE ORDINANCE NO. 757 SHALL BE AMENDED, AND THAT AS AMENDED SUCH ORDINANCE SHALL BE RESTATED AS FOLLOWS:

**SECTION 1: Permit; Financial Security; Fees**

No public street, alley, curb or sidewalk, or other public right of way within the Village may be cut or opened by any person or entity (an "Excavator") without (i) obtaining a permit from the Village Street Superintendent, except in case of any emergency, at which time the Street Superintendent will be notified and a permit obtained within the first normal working day, and (ii) providing financial security as set forth below.

The fee for the permit described in the preceding paragraph shall be \$100.00 plus an additional \$100 for each separate excavation covered by the permit.

The Excavator shall provide financial security to the Village to assure the restoration and/or repair of the rights-of-way or any other public property. The financial security shall be in the form of cash or letter of credit acceptable to the Village or other security acceptable to the Village. The amount of the financial security shall be determined by the Village per right-of-way opening application based on the anticipated scope of work. The financial security shall be held by the Village until the Village deems the project complete, and shall be returned to the Excavator, less inspection fees pursuant to Section 8 of this Ordinance, upon satisfactory completion of the work.

Upon commencement of an excavation of Village right-of-way or other public property, the Excavator shall diligently pursue the work to be performed and the restoration of the right-of-

way or other public property to completion. The failure of an Excavator to so perform for a period of five (5) days after notification by the Village (unless additional time is granted by the Village) shall be a violation of this ordinance. No open holes shall exist for more than 5 days. Any open holes that are present more than 5 days shall be a violation of this ordinance.

The Village shall notify the Excavator if the Village believes that the Excavator has failed to restore and/or repair Village right-of-way or other public property in accordance with this Ordinance and intends to utilize the financial security for proper restoration and/or repair of the rights-of-way or any other public property. The Excavator shall have 5 days (unless additional time is granted by the Village) after notification by the Village to restore and/or repair those areas noted by the Village at his/her own expense. After the 5 days, the Village may utilize the financial security for restoration and/or repair of the rights-of-way or any other public property.

## **SECTION 2: Liability Insurance and Indemnification**

(a) Each Excavator 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 Excavator 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 Excavator 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 as set forth in this Ordinance.

## **SECTION 4: Protective Measures**

(a) It shall be the duty of every Excavator 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 Excavator 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.

based on the disturbance: at the minimum it shall mean the full width of the traffic lane or to the seam of the original overlay; at the maximum it shall mean the entire width of the street. Resurface shall mean a minimum of 1.5" mill and 1.5" hot mix asphalt resurface. Resurfacing shall be completed with a paving machine. The surface shall have a minimum two percent transverse slope. The surface shall be of positive drainage and no standing water shall exist.

(2) Sidewalks. Restoration of sidewalks shall consist of a minimum of a four-inch aggregate base course under a minimum of four inches of PCC.

(c) The time period provided in this Section may be extended in the discretion of the Village Engineer.

(d) In the event that the Village plans a future improvement to the right of way, the Village has the option to require the Excavator to make a payment to the Village, rather than performing the restoration. The amount of such payment shall be the amount of the cost estimate obtained from a contractor of the Village's choice, plus engineering costs equal to ten percent of the cost estimate. Said amount shall be paid within forty (40) days after the date the Village invoices the Excavator for such cost. Amounts not paid within such forty (40) day period shall bear interest at the rate of five percent (5%) per month.

(e) Facilities are to be maintained by or for the Excavator in a manner satisfactory to the Village and at the Excavator's expense.

(f) Any Excavator who performs restoration work on a right-of-way pursuant to a permit issued under this ordinance shall be responsible for the repair of any defects and the maintenance of the restoration work from the time the restoration work is made until such time as the right-of-way is either overlaid or repaved.

(g) The Excavator shall be responsible for correcting any drainage/roadway issues occurring as a result of the Excavator's permit activities. Any drainage/roadway issues in the area of the Excavator's excavation shall be deemed as a result of the Excavator's permit activities unless the Excavator can prove otherwise. All issues shall be resolved to the satisfaction of the Village's Street Superintendent.

(h) The following requirements shall also be met:

- Cold patches are temporary and must be replaced with hot mix asphalt when conditions permit.
- Asphalt patches must be a minimum of 4" thick and properly compacted with a steel drum roller.
- Edges of all patches must be saw cut, leaving a clean, solid surface to place asphalt against.
- When a concrete street or an overlaid concrete street is to be opened, the concrete must be replaced a minimum of 8" thick or to the thickness of the existing pavement.

- All grass areas disturbed must be properly graded, seeded and mulched with a straw type mat.

(i) All work shall be performed in accordance with the construction standards attached hereto.

(j) No equipment shall be unloaded onto any improved areas without taking appropriate measures to protect the improved areas. The Excavator shall be responsible for any costs incurred by the Village to repair any damage caused by a violation of this provision.

### **SECTION 8: Inspection**

The Village Engineer shall have authority to inspect or cause to be inspected any work performed on or to any Village road or right-of-way or any portion thereof at any time before, during, or after a project. In the event that the Village incurs expense conducting inspections under this Section, the cost actually incurred by the Village for inspection services shall be deducted from the applicant's financial surety prior to refunding same.

If the Village Engineer finds, after inspection, or at any time before or upon final inspection, that the work performed does not meet the construction standards applicable to Village roads or right-of-way, that the plans or specifications under which the application was submitted are not being followed, any applicable safety standards are not being utilized, or that any laws, rules, or regulations are being violated, the Village Engineer may order the work stopped, and may order non-conforming work removed and replaced in accordance with applicable standards, plans, specifications, laws, rules or regulations.

All work shall be performed in compliance with the applicable laws, regulations, and ordinances of any governmental body, including, but not limited to, Manual on Uniform Traffic Control Devices and Illinois Department of Transportation requirements.

### **SECTION 9: Compliance with Laws**

The Excavator 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 Ordinances 274 and 580.

### **SECTION 10: 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 11: 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 12: Penalty**

Any person convicted of violating any section of this Ordinance shall be fined not less than \$100.00 nor more than \$750.00 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.

**SECTION 13: Prior Ordinances**

This Ordinance is an amendment and restatement of Village of Bellevue Ordinance Nos. 417, 452, 558 and 757, and those Ordinances are hereby repealed.

Passed and approved by the President and the Board of Trustees of the Village of Bellevue, Illinois, this 13<sup>th</sup> day of February 2024.

AYES: 6

NAYS: 0

ABSENT: 0

VILLAGE OF BELLEVUE, ILLINOIS

By: Dean Merriman  
Dean Merriman, President

Attest:

Susan Pesch  
Susan Pesch, Village Clerk

324-47.d2