

ORDINANCE NO. 39-09 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ADDING CHAPTER 12.29 (STREET OPENING AND PAVEMENT
RESTORATION REGULATIONS) TO THE RICHMOND MUNICIPAL CODE**

The City Council of the City of Richmond ordains as follows:

Section I. Addition of Chapter 12.29.

The Richmond Municipal Code is hereby amended with the addition of Chapter 12.29, to read as follows:

Chapter 12.29

STREET OPENING AND PAVEMENT RESTORATION REGULATIONS

- 12.29.010 Purpose**
- 12.29.020 Definitions**
- 12.29.030 Prohibition Period**
- 12.29.040 Permits**
- 12.29.050 Excavation Material**
- 12.29.060 Backfill**
- 12.29.070 Paving**
- 12.29.080 Defects**
- 12.29.090 Violations – Revocation and Other Penalties**

12.29.010 Purpose

The public right-of-way is a unique public resource held in trust for the benefit of the public. This physically limited resource requires proper management to maximize its efficiency and minimize the costs to taxpayers, to protect against foreclosure of future economic expansion because of premature exhaustion of the public right-of-way, and to minimize the inconvenience to and negative effects on the public from use of the public right-of-way by contractors and utility companies.

To achieve the purpose of this Chapter, the City of Richmond shall endeavor to coordinate its Capital Improvement Programs with those of utility companies and franchisees with facilities in, on, under or above the public right-of-way. Information about any planned work in the right-of-way shall be shared at the earliest possible time. Utility owners and franchisees are encouraged to coordinate their street excavations so that all work is done simultaneously and the street is not excavated more than once within a twelve-month period.

12.29.020 Definitions

- A. “Agency” means the Richmond Community Redevelopment Agency, a public body corporate and politic.
- B. “Arterial street” means any street with a traffic volume of 7,500 to 15,000 vehicles per day, including Barrett Avenue, Castro Ranch Road, Garrard

Boulevard, Harbour Way, MacDonald Avenue, Pennsylvania Avenue, Potrero Avenue, Rheem Avenue, Seventh Street, Solano Avenue, and Thirty-Seventh Street.

- C. “Asphalt Concrete” or “AC” means blend of aggregate and asphalt binder meeting the specifications set forth in the City of Richmond Standard Specifications Section 39, “Asphalt Concrete” and the Caltrans Standard Specifications Section 39, “Asphalt Concrete.”
- D. “Chip Seal” (see the definition of “Slurry Seal)
- E. “City” means the City of Richmond, a charter city and a municipal corporation duly organized and validly existing under the laws of the State of California, and all departments, divisions, and offices thereof.
- F. “Encroach” means constructing or placing temporary or permanent structures, improvements, facilities or materials in, on, over, or under any public right-of-way or using any right-of-way so as to prevent, obstruct, or interfere with the normal use of that way, including but not limited to the performance of any of the following acts:
 - i. Excavating or disturbing the public right-of-way;
 - ii. Erecting or maintaining any post, sign, pole, fence, guard-rail, wall, pipe, conduit, cable, wire, communication service equipment, or other facility or structure on, over, or under a public right-of-way;
 - iii. Planting any tree, shrub, grass, or other growing thing within the public right-of-way;
 - iv. Placing or leaving on the public right-of-way any rubbish, brush, earth, or material;
 - v. Constructing, placing, or maintaining on, over, under, or within a public right-of-way any pathway, sidewalk, driveway, or other surfacing; any culvert or other surface drainage or subsurface drainage facility; or any pipe, conduit, wire, communication service equipment or facility, or cable;
 - vi. Constructing, placing, planting, or maintaining any structure, embankment, excavation, tree, or other object adjacent to the public right-of-way which causes or may cause an encroachment.
- G. “Engineer” means the City Engineer, his or her designee.
- H. “Excavation” means any trench cuts within the street right-of-way to access or install a utility line or any related facility in excess of four (4) square feet or four (4) feet long, whichever is smaller. All such excavations shall require an encroachment permit.
- I. “Excavator” means the applicant/permittee to whom an encroachment permit is issued for the purposes of excavation.
- J. “Facility” means any fiberoptic, coaxial, or copper cable; communication service equipment; telephone, telecommunications, electric or other wire, line or equipment; utility structure; oil, gas, or other pipeline; duct; conduit; cabinet; tunnel; vault; drain; manhole; splice box; surface location marker; pole; subsurface tiebacks; soil nails; stairs; access ramps; subsurface foundations; landscape features, including curbs around planter areas; planter boxes; clocks; bus shelters; phone booths; bike racks; fencing; retaining walls; benches; stockpiles; building materials; and other appurtenances or tangible things located in, upon, above, beneath, or across any public right-of-way.
- K. “Major arterial street” means any street with a traffic volume of more than 15,000 vehicles per day, including Carlson Boulevard, Central Avenue,

Cutting Boulevard, Hilltop Drive, May Road, Robert H. Miller Drive, San Pablo Avenue, San Pablo Dam Road, Thirteenth Street, Twenty-Second Street, and Twenty-Third Street.

- L. “Major Defects” means any defects greater than the deficiency tolerances specified in the City of Richmond Standard Plans and Details; the Caltrans Standard Specifications and Details; or Individual Contract Plans and Specifications.
- M. “Micro Paving” (see the definition of “Slurry Seal”)
- N. “Micro Surfacing” (see the definition of “Slurry Seal”)
- O. “Permittee” means any person, contractor, utility or special district that has been issued a permit pursuant to this Chapter, including any lawful successor, transferee, or assignee of the original permittee. All obligations, responsibilities, and other requirements of the permittee shall be binding on successors in interest of the original permittee.
- P. “Person” means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them or any other entity which is recognized by law as the subject of rights or duties, not including the City of Richmond, the Richmond Community Redevelopment Agency, or the City’s or Agency’s officers, employees, or agents.
- Q. “Prohibition Street” means streets that have been reconstructed or resurfaced within the past three to five years (see Section 12.29.030.A, below).
- R. “Public right-of-way” means the area in, upon, above, beneath, or across any land or interest which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for travel, and includes any public street, road, highway, freeway, bridge, lane, court, alley, boulevard, sidewalk, median, parkway, or emergency vehicle easement.
- S. “Public street” means the full width of the surfaced or travel portion, including shoulders, of any road, street, path, lane, or alley dedicated to, reserved for, or used by or for the general public when those roads, streets, paths, lanes, and alleys have been accepted as and declared to be part of the city system of public streets, except highways forming a part of the state highway system.
- T. “Slurry Seal” means a mixture of polymer modified asphalt emulsion, mineral aggregate, mineral filler, water, and other additives, properly proportioned, mixed, and spread in accordance with the City of Richmond Standard Plans and Details and the Caltrans Standard Specifications; usually less than ½ inches in thickness.
- U. “Special District” means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries, and includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area within which a property tax or assessment will be levied to pay for a service or improvement benefitting that area.
- V. “Street Overlay” means one or more courses of asphalt construction on an existing pavement; usually greater than ½ inches in thickness; generally includes an asphalt leveling course to correct the contour of the old

pavement.

- W. “Structure” means any physical alteration or improvement, including but not limited to a building, post, cabinet, fence, vault, sign, pole, guard rail, wall, facility, pedestrian walking path, sidewalk, driveway, track, surfacing, culvert, drainage facility, pipe, embankment, or excavation.
- X. “Underground utility district” has the meaning set forth in Chapter 12.48 of the Richmond Municipal Code.
- Y. “Utility” means any person or entity providing electricity, gas, telephone, telecommunications, water, or other services to customers, and which pursuant to state law or local franchise is entitled to install its facilities in the public right-of-way.
- Z. “Wearing Surface Defects” mean the defects in the surface of a roadway that is in direct contact with traffic and that resists the resulting abrading, crushing, or other disintegrating action.

12.29.030 Prohibition Period

- A. Newly constructed or resurfaced streets shall be termed “Prohibition Streets” within this section. Permission to excavate in Prohibition Streets will not be granted for five (5) years after the completion of street overlays. An overlay consists of a at least a ½ inch thick layer of asphalt. For those streets with chip seal, slurry seal coating, or micro paving with less than ½ inch of new pavement, the prohibition period shall be for three (3) years. Utilities shall plan well enough in advance to determine alternate methods of making necessary repairs to avoid excavating in newly resurfaced streets. Exceptions to the above policy are as follows:
 - 1. Emergencies that endanger life or property.
 - 2. Interruption of essential utility service.
 - 3. Work that is mandated by city, state, or federal law.
 - 4. Service for buildings where no other reasonable means of providing service exists.
 - 5. Situations in which no alternative course of action exists, as determined by the Engineer in writing setting forth the facts giving rise to the conclusion that no alternative exists.
- B. To excavate in a Prohibition Street a waiver must be obtained.
 - 1. To request a waiver, the applicant must submit a written request to the Engineer. The request must include:
 - a. The location of the excavation.
 - b. Description of the work to be performed.
 - c. The reason(s) the work was not performed before the street was paved.
 - d. The reason(s) the work cannot be deferred until after the prohibition period.
 - e. The reason(s) the work cannot be performed at another location.

- f. The reason(s) it is justified to excavate the Prohibition Street.
2. Any excavation in Prohibition Streets will be repaired with full lane width paving on the street as follows (refer also to Section 12.29.070, Paving):
- a. Overlaid or reconstructed streets: All lanes that are affected shall be ground down 2 inches and repaved with 2 inches of asphalt concrete, OR all lanes that are affected shall be resurfaced per Section 12.29.070 Paving.
 - b. Slurry sealed, chip sealed, or micro-surfaced streets: All lanes that are affected shall be resurfaced per Section 12.29.070 Paving.
 - c. A minimum of one (1) feet on either side of the trench shall be resurfaced if the excavation is a lateral cut. For longitudinal trenches the entire length plus one (1) foot on either end shall be resurfaced.
 - d. Exception – Full lane width restoration shall not be required if either of the following conditions apply:
 - i. The work is not considered an excavation as defined in Section 12.29.020.
 - ii. The work is being performed on behalf of a low-income household in order to bring an owner-occupied single-family residence into compliance with sanitary sewer regulations at any time other than as part of the sale of the residence. Low-income is defined as 80% of area median family income. The purpose of this exception is to prevent hardship to property owners of limited means and it shall be interpreted and applied solely to achieve that purpose.
- ii) Before issuing a permit for work in a Prohibition Street, the Engineer will verify that the applicant has analyzed all feasible alternatives to make the necessary repairs using a trenchless method in prohibition streets to avoid excavating a newly resurfaced street whenever possible.

12.29.040 Permits

- A. Any and all construction work within the public right-of-way shall require an encroachment permit. Anyone doing excavation work within the City of Richmond public right-of-way shall obtain a street cut permit for the purpose of excavation in addition to any other required permits. The contractor performing the work shall apply for the permit.
- B. The permit application may be obtained from the City of Richmond Engineering Services Department.
- C. Prior to applying for a street cut permit, the excavator must register with the City of Richmond. The contractor performing the work shall apply for the permit. The following must be provided to register for an excavation permit:
 - 1. A cash deposit equal to \$500 or 25% of the value of the work (whichever is greater) as a warranty bond. Companies working under a franchise agreement that includes a bond are not required to post the cash deposit unless/until they have been issued a notice

or citation for a violation by the City of Richmond standards or permit requirements.

2. A current City of Richmond Business License.
3. Current evidence of insurance.
4. 24-hour phone number for emergencies.
5. The name, telephone number, and mailing address (fax number, cell phone, and e-mail address if available) of the person who will receive all office correspondence from the City of Richmond.

D. All applications shall include plans indicating the following:

1. Name of the street to be excavated and the nearest cross street.
2. Distance of proposed excavation from the face of curb.
3. Distance of proposed excavation from the intersection.
4. The size of the excavation (length and width).
5. The location of any above ground facilities to be installed, showing:
 - a. Distance from curb and any street facilities/furnishings.
 - b. Purpose of the facility.
 - c. Size of the facility.
 - d. Location of doors and door swings.
6. The location of any existing underground facilities and the location of underground facilities to be installed showing:
 - a. Conduit vaults, maintenance holes, pipes, etc.
 - b. Structural detail and additional information for structures to be installed such as vaults and maintenance holes.
 - c. The construction method of the structure to be installed.
 - d. Construction detail, location, size, design criteria and the purpose of the facility to be installed.
7. Cross section of a typical trench indicating:
 - a. The approximate depth of the facility to be installed.
 - b. Trench backfill depth, compaction and layer depths.
 - c. Pavement section detail (type and depths).
 - d. Plans, structural details, and trench cross section must be signed and stamped by a licensed Civil Engineer, when legally required.
8. The plan may show the approximate location of the excavation provided that on an "as-built" plan, the exact location of the

excavation is shown. The “as-built” plan shall be submitted prior to the permit being finalized.

9. A traffic control plan.
- E. All excavation permit fees are due at the time the permit is issued. These fees represent the value of staff time in processing a permit application and are non-refundable.
1. All past due fees, fines and penalties owed by the applicant must be paid before a permit will be issued.
 2. If a permit violation occurs no other application will be processed until the fines and penalties have been paid and all permit conditions are met.
- F. If an account is past due or not in good standing, a permit cannot be issued until the account is brought into good standing. To bring the account to good standing, all fees and fines must be paid.
- G. As a condition of the permit to excavate, the applicant shall provide evidence of an inquiry identification number issued by a regional notification center (Underground Service Alert, USA) pursuant to Section 4216, California Government Code.
- H. Permittees and excavators shall pay close attention to the location and alignment of all USA markings while performing their work. USA Codes are:
- | | |
|-----------------------|--------|
| Electric | Red |
| Gas-Oil | Yellow |
| Communication-CATV | Orange |
| Water | Blue |
| Sewer | Green |
| Temp. Survey Markings | Pink |
| Proposed Excavation | White |
- I. If an excavator damages other facilities during their excavation work the excavator will need an additional street cut permit if additional excavation and trenches are needed to repair the damaged facility. The original permittee shall maintain the site and restore the pavement and any affected signage or striping.
- J. Except in an emergency, street cut permits shall be taken out in advance of excavation work. An emergency is considered to exist only when life or property is endangered or when an essential utility service is or may be interrupted during weekends, holidays, or between 5 p.m. and 8 a.m. of normal working days.
- K. In the event of an emergency, the excavator shall notify the City of Richmond and apply for a street cut permit for “emergency work” within four (4) hours after the City of Richmond’s office opens.
- L. Pre-Construction meeting:
1. A pre-construction meeting shall be held for all projects that are scheduled to take longer than 15 working days to complete.
 2. The owner, contractor, any other agency that is involved and the City of Richmond shall attend this meeting.

3. For projects that are supposed to be completed within 15 days, and are not completed within the allowed time, the City may issue administrative citations if a pre-construction meeting was not held.
 4. The traffic control plan shall be approved prior to the pre-construction meeting.
- M. Permit duration shall be indicated on the permit:
1. All permits shall include estimated start and completion dates. A permit is valid from the construction start date specified on the approved permit until the specified completion date.
 2. Excavation permits are not valid if other required permits are not obtained or required notifications are not given.
 3. No disruption of traffic is allowed after 4:00 PM and before 8:00 AM unless specifically approved for these hours.
 4. Some permits may be valid on specific dates. They may be approved with special conditions specifying dates:
 - a. When work shall be done.
 - b. When work shall be completed.
 - c. Before which work shall not start.
 5. Permits expire and become void, unless otherwise amended:
 - a. Sixty (60) days after the start date, if no work has begun.
 - b. If the work is not diligently proceeding and there are delays of more than four (4) working days after the work has started, unless the delays are caused by weather or other circumstances beyond the permittee's control.
 - c. When the excavation, including the trench restoration, is completed or on the date specified on the permit as the expiration date.
 6. The work is determined to be proceeding diligently if:
 - a. After a project begins, work continues on a regular basis, except for weekends, holidays, inclement weather, labor disputes, or any emergency beyond the control of the permittee.
 - b. The permittee ensures that all necessary materials and supplies are on hand and ready for use so as not to delay the excavation and the prompt restoration of the public right-of-way.
- N. A valid permit may be extended by requesting an extension prior to the expiration date by specifying the dates that need to be changed and explaining the reason for the extension. The Engineer reserves the right to deny a request for extension.
- O. If an application has been withdrawn or an approved permit is cancelled prior to the start of work the applicant or permittee may request a refund of the bond funds; all other permit fees are non-refundable.

1. To request a refund, submit a written request to the Engineer.
 2. The request shall include:
 - a. The reason for cancellation or withdrawal.
 - b. The permit number.
- P. By accepting a street cut and/or encroachment permit, the permittee and the owner of the facility(ies) for which the permit has been issued agree:
1. To follow all laws, rules, regulations, and permit conditions.
 2. To assure that their employees, contractors, and subcontractors, comply with all laws, rules, regulations, and permit conditions.
 3. To indemnify the City of Richmond against all claims for personal injury or property damage that may arise in connection with the work.
- Q. The street cut and/or encroachment permit shall be available during work periods at the excavation site, until the project is completed and approved by the Engineer. Permit(s) shall be shown to the City of Richmond employees upon request.
- R. The excavator shall provide public notifications when excavating in the public right-of-way.
1. Minor projects lasting longer than 48 hours but less than 15 working days shall provide 11"x17" posters with 1-inch minimum letters at the beginning and end of the project and every 300 feet between the beginning and the end of the project. Notes must contain:
 - a. The names, address, and telephone number of the owner and the permittee.
 - b. The start and completion dates of the project.
 2. Major projects lasting 15 working days or longer, the excavator shall:
 - a. After the permit has been issued and at least five but no more than 30 calendar days before the anticipated start date of work, mail or deliver written notice to:
 - i. Residents and occupants along the affected street.
 - ii. Schools, churches, and other assembly uses within 300 feet of the affected street.
 - iii. The City of Richmond Engineering Services and Public Works Departments.
 - b. At least five calendar days but not more than 15 calendar days prior to starting work, post and maintain 11"x17" notices in accordance with paragraph R(1) above. The notices must contain:
 - i. The name, address, and telephone number of the owner and the permittee.

- ii. A description of the project.
- iii. The start and completion dates of the project.
- iv. The name, address and 24-hour telephone number of a contact person.

12.29.050 Excavation Material

- A. Pavement shall be cut to a straight, neat, vertical line prior to excavation.
- B. All excavated material shall be removed from the job site within twenty-four (24) hours.
- C. Every trench must be backfilled or covered by trench plates the same day. The City may issue administrative citations or pursue any other legal remedy if the trenches are not properly covered or backfilled in a timely manner. Backfill must meet the requirements specified in 12.29.060 of this section.

12.29.060 Backfill

- A. Trenches shall be backfilled with Class 2 Aggregate Base as specified in the Caltrans Standard Specifications Section 26, "Aggregate Base" or suitable material as required by the City of Richmond Standard Plans and Specifications. Compaction of backfill shall be in accordance with the City of Richmond Standards.
- B. When undermining occurs, remove existing pavement as required to compact the backfill and restore the pavement.
- C. Compaction tests shall be certified by an independent laboratory and submitted to the Engineer, who may require the contractor to recompact and retest until the test results show that proper compaction is being achieved.

12.29.070 Paving

- A. Trenches shall be paved in accordance with the City of Richmond Standard Plans and Specifications. After the trench has been backfilled, and immediately prior to placing asphalt concrete, the existing asphalt concrete shall be saw cut, or milled according to City of Richmond Standards, to a vertical face. The cut shall be a "T-Cut" according to City of Richmond Standards and the new asphalt concrete paving shall be butt joined to the existing asphalt concrete vertical face. No feathering of new paving to existing paving is allowed. The vertical faces shall be tack coated. In Prohibition Streets, placement of the final two (2) inches of asphalt concrete wearing surface shall be done by a paving machine or spreader box. Asphalt concrete shall be delivered and compacted in accordance with the City of Richmond Standard Plans and Specifications.

To allow for proper placement of the new pavement section, damaged pavement outside of the original trench cut lines shall be removed by cutting in lines perpendicular to or parallel to the original trench lines. No diagonal cuts are to be made. Undamaged pavement of three (3) feet or less between two damaged areas shall also be removed.

- B. For trenches in recently paved Prohibition Streets, the entire lane shall be key-cut two (2) inches deep, and repaved with asphalt concrete unless the Engineer gives written authorization to resurface with a polymer modified

slurry seal instead. Authorization from the Engineer to use slurry seal instead of asphalt concrete shall set forth the reasons for the authorization.

- C. For trenches in recently slurry sealed Prohibition Streets, the entire lane shall be resurfaced with polymer modified slurry seal.
- D. Trenches in concrete streets shall be repaved with concrete. The thickness of the new pavement shall be equal to the thickness of the existing pavement with the minimum thickness to be six (6) inches in the roadway.
- E. Trenches in arterial and collector streets shall be paved with not less than six (6) inches asphalt concrete or match the existing pavement thickness (whichever is greater).
- F. Pavement shall be restored within fourteen (14) working days from the time the entire trench is backfilled, unless delay is excused due to circumstances beyond the contractor's control, such as inclement weather. For minor excavations such as service installations, the pavement shall be restored within thirty (30) working days from the time the entire trench is backfilled, unless delay is excused due to circumstances beyond the contractor's control, such as inclement weather.
- G. Asphalt pavement shall be compacted to obtain a minimum of ninety-five percent (95%) relative compaction. The asphalt concrete wearing surface shall have no irregularity greater than five-sixteenths of an inch (5/16") in ten feet (10') in any direction.
- H. On all streets steel plates shall be used to facilitate traffic flow and to protect the excavation until finish pavement is restored. Steel plates used to bridge a street opening shall be ramped to the elevation on the adjacent pavement and secured against movement in any direction. Temporary ramps shall be constructed of asphalt and shall have a gradual 30:1 slope or flatter using asphalt cutback.
- I. All painted USA markings shall be removed by the permittee after the work has been completed.
- J. All damaged pavement markings and striping shall be replaced and restored by the permittee.

12.29.080 Defects

- A. Depressed trench pavement shall be repaired as follows:
 - 1. Wearing Surface Defects – remove and restore wearing surface.
 - 2. Major Defects – excavate, remove and restore surface and base.The permit inspector will determine the severity of the defect.
- B. Work not in compliance with the above requirements shall be rejected, removed, and redone by the permittee to the satisfaction of the Engineer.
- C. The owner of the facility/utility company is responsible for any roadway defects in the area over and adjacent to the trench appearing after the permittee restores the trench. The owner is responsible for maintenance, repair or reconstruction of the excavation site's affected area until the City of Richmond reconstructs, repaves, or resurfaces the street.
- D. If there is a trench-related failure after the City of Richmond reconstructs, repaves, or resurfaces the street, the owner of the facility/utility company

is responsible for its repair if the failure occurs within 1-year of a trench repair.

- E. When the City of Richmond determines that an excavation or a defect is hazardous or constitutes a public nuisance or other imminent threat to public health, safety, or welfare, the Engineer may order the responsible party to remedy the condition immediately.

If the responsible party refuses or fails to make the needed repairs immediately, the City of Richmond will make the repairs and:

1. The responsible party will be charged all the actual costs including administration, construction, consultant fees, equipment, inspection, notification, and remediation made necessary by the action or inaction of the permittee.
2. The repair or restoration by the City of Richmond does not relieve the responsible party from liability for future pavement failures.
3. If the responsible party fails or refuses to pay the restoration cost, the City may use any legal means to recover the costs, including but not limited to property liens and/or court action.

12.29.090 Violations – Revocation and Other Penalties

Any violation of this Chapter may be enforced either as an infraction or as a misdemeanor, or by any remedy available to the City under this Code or under state law. Potential enforcement measures include but are not limited to the following:

- A. Fine. If a City inspector finds that a contractor has committed any of the following violations then the contractor may be required to pay a fine or penalty for his or her actions. The penalties for violations are listed in the City’s Master Fee Schedule.

VIOLATIONS

PENALTIES

(Not to exceed amount shown)

1. Working without a permit.
2. Excavation without providing public notice.
3. Beginning a “Major Project” without having a pre-construction meeting.
4. Violation of permit conditions.
5. Improper site protection: improper plating, path of travel, barricading, etc.
6. No permit on site.
7. Improper trimming of trench.
8. Any trench left open after the allowed work hours that is not backfilled and covered.
9. Improper public notice: no notice sign, wrong information on sign/notice.
10. Non-compliance with trench restoration requirements.
11. Improper housekeeping: failure to remove spoil, dirty site, no sweeping, etc.

- Administrative Citation, stop work, and apply & pay for the required permit.
- Administrative Citation and stop work.
- Administrative Citation

12. Other excavation code violations.

Administrative Citation

The above fines, when assessed, shall be deducted from the cash deposit required by 12.29.040.F(1) of this section or will be paid by the applicant if there is not a cash deposit.

- B. Suspension. Whenever the Engineer finds that a suspension of an encroachment permit is necessary to protect the public health or safety from imminent danger, the Engineer may immediately suspend any such permit pending a hearing for remedial action or revocation. The Engineer shall, within three (3) working days of the emergency suspension, give a written notice of such suspension to the permittee, by personal service or by first class mail, postage prepaid, to the last known address of the permittee. The permittee may, within fifteen (15) days after service of such a written notice of suspension, file with the City Manager a request for hearing regarding the suspension. The City Manager or his or her designee shall schedule a hearing on the suspension within five (5) working days of receipt of a request for hearing. If the City Manager or his or her designee, after the hearing, finds that the public health or safety requires correction or alteration of any condition caused by, or existing on the site of the encroachment, he or she shall issue one or more of the following:
1. An order to correct any particular noncompliance.
 2. A revocation of the encroachment permit.
 3. A continued suspension of the encroachment permit, until such time as the dangerous condition is corrected.
 4. A modification or reinstatement of the encroachment permit, with conditions as necessary to prevent harm to the public.

The City Manager or his or her designee shall, within ten (10) days of the hearing, render a written opinion, stating the findings upon which the decision is based, and the action taken. The decision of the City Manager or his or her designee shall be final, except a decision to revoke the permit which may be appealed to the City Council in accordance with section 12.30.060.B of this Code.

- C. Revocation. The Engineer may recommend that the City Manager revoke a permit where he or she finds that:
1. The permittee has violated any provision of this Code or conditions of the permit; or
 2. The permittee has failed to pay any required fees, or to post or maintain any bond or insurance required by this Chapter; or
 3. The encroachment for which the permit was granted adversely affects the safety, capacity, or integrity of the City's public right-of-way or increases the City's liability exposure; or
 4. The encroachment is causing the City to incur substantial additional maintenance costs; or
 5. Material misrepresentations, omissions, or inaccuracies were made in the application for the permit.

The Engineer shall give the permittee at least ten (10) days' written notice of a hearing before the City Manager or his or her designee on the proposed revocation of a permit issued pursuant to this Chapter, setting forth the grounds for such action. If, after reviewing all evidence presented before or at the public hearing, the City Manager or his or her designee makes any one of the five findings set forth above, he or she may revoke the permit. The City Manager or his or her designee shall, within ten (10) days after the close of the hearing, render a written opinion, stating the findings upon which the decision is based, and the action taken. The decision of the City Manager or his or her designee may be appealed to the City Council in accordance with Section 12.30.060.B of this Code.

Section II. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause, or phrase of this Ordinance irrespectively of the unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause, or phrase.

Section III. Inconsistency.

Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinance of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

Section IV. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after its adoption.

First read at a regular meeting of the Council of the City of Richmond held, November 3, 2009, and finally passed and adopted at a regular meeting thereof held December 1, 2009, by the following vote:

- AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin
- NOES: None
- ABSTENTIONS: None
- ABSENT: None

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

I certify that the foregoing is a true copy of **Ordinance No. 39-09**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 1, 2009.