

Ordinance No. 98197

AN ORDINANCE amending Sections 41 and 6 of Ordinance 90047, as amended, to require permits for and regulate excavations or fills adjacent to a public place and to establish fees for such permit and amending Section 25(h) of Ordinance 90047 to regulate excavations adjacent to or extending into street areas.

9-23-69 - pass

COMPTROLLER
FILE NUMBER 260706

Council Bill No. 89755

INTROUCED: SEP 22 1969	BY: <i>Administrative</i>
REFERRED: SEP 22 1969	TO: <i>Special E. Sewers</i>
REFERRED:	
REFERRED:	
REPORTED: SEP 22 1969	SECOND READING: SEP 27 1969
THIRD READING: SEP 22 1969	SIGNED: SEP 27 1969
PRESENTED TO MAYOR: SEP 22 1969	APPROVED: OCT 1 1969
SENT TO CITY CLERK: OCT 1 1969	PUBLISHED: OCT 4 1969
VETOED BY MAYOR:	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

over

Unanimous Vote

YES _____ NO _____

SEE BACK COVER

ORD. 99674 -AMENDING SEC. 6 OF ORD. 90047, AS AMENDED, & ADDING AN ADD'L SECTION - DESIGNATED 49(A) TO ALLOW PERMITS FOR USE & OCCUPATION OF SIDEWALK AREA FOR SIDEWALK CAFE & RESTAURANT PURPOSES.

ORDINANCE 98197

AN ORDINANCE amending Sections 41 and 6 of Ordinance 90047, as amended, to require permits for and regulate excavations or fills adjacent to a public place and to establish fees for such permit and amending Section 25~~(4)~~ of Ordinance 90047 to regulate excavations adjacent to or extending into street areas.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That Section 41 of Ordinance 90047 (Street Use Ordinance) be amended to read as follows:

Section 41.(a) Excavations and Fills. It shall be unlawful to leave any excavation or fill within four feet of any public place without adequate barricades and warning devices to protect the public, or to fail to maintain the lateral support of any public place or of a fill adjacent to such public place.

(b) Excavation and Fills near Improved Public Places. It shall be unlawful to excavate or fill in excess of four feet, measured vertically, on private property within any area between the vertical prolongation of the margin of an improved public place, and a one hundred per cent (100%) slope line (45° from a horizontal line) from the existing elevation of the margin of the traveled surface of an improved public place to the proposed elevation of the private property, without first obtaining a permit from the City Engineer to do so, and no work shall commence toward such excavation or fill until a permit therefor has been issued by the City Engineer.

(c) Security. An applicant for the permit provided for in Section 41(b) shall post or cause the owner or contractor to post security with The City of Seattle in an amount sufficient to cover the following:

- (1) all charges and payments due under this ordinance; and

(2) when it can be anticipated that an earth movement might occur, the reasonable costs of the following:

- (i) The cost of repair and restoration of any adjacent public place, including but not limited to grading, resurfacing and drainage;
- (ii) The cost of repair and restoration of all sewers, water, and power lines and other utilities in the adjacent public place; and
- (iii) The expense of safety precautions and emergency measures to protect the public, street utilities and any adjacent public place, including but not limited to the expense of placing of signs, barricades, and traffic detours.

Upon notice to said applicant, the City Engineer may at any time increase or reduce the amount of the required security or waive the same as conditions warrant.

The party posting the security may elect whether the security will be in the form of a cash indemnity deposit or surety bond approved as to amount and sufficiency by the City Engineer, and as to the estimates of subsection 41(c)(2), substitute in lieu therefor a policy of insurance indemnifying The City of Seattle for such costs.

(d) Insurance. An applicant for the permit provided for in Section 41(b) shall maintain in full force and effect public liability insurance in an amount sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be related to the excavation or fill covered by any such permit or the operation of equipment used in connection with such excavation or fill and naming The City of Seattle as an additional insured, or in lieu thereof, cause the owner or contractor to maintain the same. The City Engineer may require that such insurance be provided prior to issuance of the permit.

(e) Indemnity. An applicant for the permit provided for in Section 41(b) shall agree to at all times protect and save harmless The City of Seattle from all claims, actions, suits, losses, and expenses of every kind and description which may accrue to or be suffered by any person or persons or property or by The City of Seattle by reason of any excavation or fill for which a permit has been issued pursuant to said Section 41(b) and shall agree to compensate The City of Seattle for damages to the street and the utilities therein, and for costs of repair, reconstruction, and restoration of the street, including but not limited to the expenses of such repair, reconstruction or restoration, construction of temporary facilities and by-passes, traffic redirection, barricades, and other measures taken to protect the public, the street, and utilities therein.

(f) Entry and Inspection. The filing of an application for a permit provided for in Section 41(b) or the making of an excavation or fill described in said Section 41(b), shall constitute consent by the applicant, contractor, and property owner for the City Engineer to enter upon the property at reasonable times and to inspect and investigate the soil conditions, the progress of said excavation or fill, or any facts and circumstances related to said application, permit or excavation or fill.

(g) Special Plans. If the safety or stability of a public place may be jeopardized by an excavation or fill described in Section 41(b), the City Engineer may require special plans, specifications and proposed methods of construction to be submitted for his approval prior to issuing the permit provided for in said Section 41(b).

Approval of the plans shall not relieve the contractor making such excavation or fill of responsibility for satisfactory results and shall not reduce or affect the liability of said contractor for damages, expenses or costs which may result from said excavation or fill, the failure of shoring, or the contractor's methods of operation.

(h) Charges, Shoring Plans. When special plans, specifications and methods of construction involving shoring for an excavation are submitted to the City Engineer for approval as provided herein, a charge per linear foot of shoring based on the length of the shored excavation and the average depth of the shored excavation shall be made for checking plans and field inspection as follows:

TABLE FOR COMPUTATION OF CHARGES

<u>DEPTH*</u>	<u>Cost/foot first 200 feet</u>	<u>Cost/foot over 200 feet**</u>
0 - 10	\$ 1.00	\$ 0.50
10.1 - 20	2.00	1.00
20.1 - 30	3.00	2.00
30.1 - 40	4.00	3.00
40.1 - 50	5.00	4.00
50.1 - 60	6.00	5.00
60.1 - 70	7.00	6.00
70.1 - 80	7.50	6.50

* The average vertical distance from the undisturbed margin of the abutting public place to the bottom of the excavation and separately calculated for each street abutting the excavation.

** First 200 feet of each street or alley abutting the excavation before the lower rate is charged on the balance of that same street or alley.

(i) Permit Procedures. The following procedures and criteria shall be used in processing an application for the permit provided for in Section 41(b):

- (1) Plans, specifications and methods of construction required by the City Engineer shall be submitted in triplicate.
 - (2) Shoring plans submitted shall be designed by and bear the seal of a professional engineer or architect licensed in the State of Washington.
 - (3) All shoring systems, including the members, their connections and support, shall be designed to carry the loads imposed on them and details shall be shown on the plans.
 - (4) Allowable stresses, including allowances for short term loading, for timber, steel or concrete shall be based on the Building Code of The City of Seattle.
 - (5) Soil investigations and reports may be required for all excavations described in Section 41(b) so that appropriate pressures may be established.
- The City Engineer may require investigations at any depth whenever specific conditions existing at the site of such excavation reveal an unstable soil structure, circumstances indicate that the excavation may impair the lateral support of any public place or any adjacent city property, or that such

further investigation will supply information necessary to properly evaluate the application for said permit or shoring plans submitted. When highway traffic can come within a horizontal distance from the top of the shoring equal to one-half of its height, the pressure shall have added to it a live load surcharge pressure equal to not less than two feet of earth.

(j) Compliance. All excavations and fills described in Section 41(b) shall be made in accordance with the plans approved by the City Engineer, or as modified with his approval.

(k) Revocation. The City Engineer may revoke or suspend the permit provided for in Section 41(b) whenever:

- (1) The permittee requests such revocation or suspension;
- (2) The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this ordinance, the Seattle Building Code, or other City ordinances and the State Safety Code;
- (3) Entry upon the property for the purposes of investigation and inspection has been denied;
- (4) The permittee has made a misrepresentation of a material fact in applying for said permit;
- (5) The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, street, utilities in the street, or the excavation or fill endangers or will endanger the public, the adjoining property, street, or utilities in the street;

- (6) The permit has not been acted upon within one year or the time allowed by extensions;
- (7) The related building permit has expired without renewal, or has been revoked or canceled.

Upon suspension or revocation of the permit, all work thereupon shall cease, except as authorized or directed by the City Engineer.

(1) Protection of Public. Whenever an excavation or fill described in Section 41(b) has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place, street utilities, or city property, the City Engineer may direct the contractor making such excavation or fill and/or owner of the property upon which such excavation or fill is being made, at his own expense, to take actions to protect the public, adjacent public places, city property, and street utilities, including compliance within a prescribed time.

In the event that said owner or contractor fails or refuses to take the actions directed promptly, or fails to fully comply with such directions given by the City Engineer, or if emergency conditions exist requiring immediate action, the City Engineer may enter upon the property and take such actions as he deems necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, including placing of temporary shoring, back filling, alteration of drainage patterns and any other actions reasonably necessary to decrease the possibility or extent of earth

movement, or regarded as necessary safety precautions; and said owner and/or contractor shall be liable to the City for the costs thereof.

(m) Collection of Charges. The holder of the permit provided for in Section 41(b), contractor making the excavation or fill described in said Section 41(b), or the owner of the property upon which such excavation or fill is being made shall pay all charges assessed pursuant to this ordinance on or before thirty days after mailing of a Statement of Charges by the City Engineer. In event of an appeal pursuant to Sections 41(n) and 41(o), the Board of Public Works may extend the time for payment pending its determination and for a reasonable time thereafter.

Such charge shall be the joint and several obligation of said permit holder, contractor and owner and in the event such charges remain unpaid thirty days after the date due recovery thereof may be made from the cash deposit and/or upon the security provided pursuant to Section 41(c), and/or by civil action in the manner provided by law.

(n) Appeal. An applicant for the permit provided for in Section 41(b), feeling aggrieved by any of the following actions, charges or determinations of the City Engineer may within 10 days thereof appeal the same to the Board of Public Works by filing a written notice of appeal with the Board:

- (1) The denial of a permit to excavate or fill required by Section 41(b);
- (2) The amount or sufficiency of the security to be posted pursuant to Section 41(c);

- (3) The amount and coverage of the insurance to be supplied pursuant to Section 41(d);
- (4) Requests for soil investigations made pursuant to Section 41(i)(6);
- (5) Actions imposing conditions modifying, or rejecting any special plans, specifications, shoring plans, and proposed methods of construction required by Section 41(g) or 41(i);

Provided, no appeal may be made from such actions or determinations after the applicant has accepted said permit to excavate or fill. Unless otherwise directed by the Board, no such permit to excavate or fill shall issue until after final determination of any such appeal.

A holder of the permit provided for in Section 41(b), feeling aggrieved by any of the following actions, charges or determinations of the City Engineer may within 10 days thereof appeal the same to the Board of Public Works by filing a written notice of appeal with the Board:

- (1) A directive by the City Engineer to increase the security required pursuant to Section 41(c);
- (2) The amount of charges for actions taken pursuant to Section 41(1) or 25(h) to protect the public;
- (3) Suspension or revocation of the permit pursuant to Section 41(k).

Any such permit holder feeling aggrieved by any action, directive or determination of the City Engineer made or taken pursuant to Section 41(1), other than the amount of charges made thereunder, may appeal

from the same to the Board of Public Works by filing a written notice of appeal with the Board within 3 days (exclusive of Saturday, Sunday and holidays) from the date the direction or determination was first made, or the action first taken: Provided, that such permit holder shall fully comply with the City Engineer's direction or determination pending the decision of the Board, and no compensation shall be paid or allowed such permit holder for any expenses incurred in connection with compliance. The Board of Public Works may sustain, modify or reverse any such action, charge or determination of the City Engineer and its decision shall be final.

(o) Form of Notice of Appeal. The written notice of appeal required in Section 41(n) shall be filed in triplicate, describe precisely the action or determination appealed, explain the error alleged therein, and propose the action desired from the Board.

Section 2. That Section 6 of Ordinance 90047 (Street Use Ordinance), as amended by Ordinance 91749, be further amended to read as follows:

Section 6. Definitions. The words and phrases herein used, except where the same shall be clearly contrary to or inconsistent with the context of the ordinance or the section in which used, shall be construed as follows:

ADJACENT PROPERTY means and includes the property abutting the margin of a public place contiguous and with reference to said public place.

AREAWAY means and includes a sunken space, either covered or uncovered, or a court affording room, access or light to a building.

AWNING means a protective covering attached to a building, the upper surface of which has a pitch of at least thirty degrees from the horizontal.

BANNER means and includes any pliable material stretched over or across any public place.

BUSINESS PROPERTY means and includes all properties not included in "Residence Property" defined herein.

CANOPY means a nonrigid, collapsible, nonretractible, protective covering, located at an entrance to a building.

CITY ENGINEER means the City Engineer and his authorized representatives.

DRIVEWAY means and includes that portion of a public place which provides access to an off-street vehicular facility through a depression in the constructed curb or, when there is no constructed curb, that area in front of such vehicular facility as is well defined or as is designated by authorized signs or markings.

IMPROVED PUBLIC PLACE means any public place, as defined herein, which contains overhead or underground utilities or a driving or walking surface.

MARQUEE means an approximately horizontal rigid nonretractible, noncollapsible structure, projecting from and supported by a building.

MARQUEE SIGN means a sign placed on, constructed in, or attached to a marquee.

PUBLIC PLACE means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way open to the use of the public, and the space above or beneath the surface of the same.

RESIDENCE PROPERTY means and includes any property designated in the "Zoning Ordinance of Seattle" as: RS, RW, RD, RM and RMH, except when occupied or being improved by a conditional or non-conforming use.

SIGN means any medium, including its structure and component parts, which is used or intended to be used out of doors to attract attention to the subject matter for advertising purposes, other than paint on the surface of a building.

USE means and includes to construct, store, erect or maintain in, upon, over or under any public place any areaway, marquee, awning, clock, sign, billboard, sidewalk, elevator or door, fuel opening, staging, swinging scaffold, elevator or other structure or material, machinery or tools used or to be used in connection with the erection, alteration, repair or painting of any building; or to move any building along or across any public place; or to use or occupy any public place for the storage or placement of any material, equipment or thing; or to operate any cleated or tracked vehicle in any public place; or to allow any vehicle to be in or upon any public place other than that portion used as a roadway; or to remove, injure or destroy any tree, flower, plant or shrub in any public place; or to deposit or permit the deposit of any liquids which cause a noxious effluvia upon a public place; or to kindle, make or have any fire on any public place; or to open, excavate, or in any manner disturb or break the surface or foundation of any permanent pavement, or to alter the established grade of any street, or to disturb the surface of, dig up, cut, excavate or fill in any public place; or construct, reconstruct, maintain or remove any sidewalk, or crosswalk, pavement, sewers, watermains, grading, street lighting, or appurtenances thereto, except when permitted by

ordinance; or to do any work in, or erect any structure under, along or over any public place.

Words in the present tense shall include the future tense, words in the masculine gender shall include the feminine and neuter genders, and words in the singular shall include the plural and plural words shall include the singular.

Section 3. That Section 25(h) of Ordinance 90047 (Street Use Ordinance) be amended to read as follows:

Section 25(h). Excavations and cave-ins. Where excavations are to be made in any area adjacent to a street area, the owner, agent, or contractor making such excavation shall maintain the lateral support of said street area. Where excavations have been made in the street area, or a cave-in or slide of earth has occurred extending into a public place due to excavation on private property, the City Engineer shall restore the street area at the expense of said owner, agent or contractor who shall be jointly and severally liable therefor; or if the City Engineer so directs, the contractor, owner or agent shall make such backfill and restoration under the inspection of the City Engineer. The City Engineer shall collect the cost of any such work done or inspection made from the cash deposit and/or surety bond supplied by said contractor, owner or agent and/or by civil action in the manner provided by law.

(To be used for all Ordinances except Emergency.)

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 29 day of September, 1969, and signed by me in open session in authentication of its passage this 29 day of September, 1969.

President Pro Tem of the City Council.

Approved by me this 1 day of October, 1969.

Mayor.

Filed by me this 1 day of October, 1969.

Attest: City Comptroller and City Clerk.

(SEAL)

Published OCT 4 1969

By Deputy Clerk.

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THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING • SEATTLE, WASHINGTON 98104

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A. L. NEWBOULD, CORPORATION COUNSEL

CITY PROSECUTORS
ROBERT M. ELIAS
JACK B. REGAN
ROBERT B. JOHNSON

CLAIM AGENT
V. L. PORTER

September 22, 1969

Re: C.F. 260706

Streets and Sewers Committee
City Council
Seattle

Honorable Members:

By letter dated September 11, 1969 you have "re-referred" to this office C.F. 260706 and Council Bill 88858 and you request that "revisions be made in previous submitted legislation in accordance with subsequent discussions between the Corporation Counsel and the City Engineer's office, relating to Section 41(c), 41(d), 41(k), and 41(n)" of Ordinance 90047 relating to regulation of excavations or fills adjacent to a public place and permits for the same.

The proposed ordinance transmitted herewith incorporates the changes resulting from our discussions with the City Engineer as to Section 41(c), 41(d) and 41(k). The ad hoc committee of Architects, Engineers and Contractors working with the Associate General Contractors had suggested changes in Section 41(n) to allow construction to continue pending an appeal to the Board of Public Works from a decision of the City Engineer on certain matters, including the denial of a permit to excavate or fill, the amount or sufficiency of the security to be posted, and the amount and coverage of the insurance to be supplied. The Engineering Department has not acceded to such change which therefore has not been made in the proposed legislation transmitted herewith.

Yours very truly,

A. L. NEWBOULD
Corporation Counsel

By
JORGEN G. BADER
Assistant

JGB:w
Encl.

SEP 22 12 27 PM '69
SEATTLE CITY COUNCIL

The City of Seattle--Legislative Department

MR. PRESIDENT:

Date Reported
and Adopted

Your Committee on STREETS AND SEWERS

SEP 29 1969

to which was referred C.B. No. 89755,

amending Sections 41 and 6 of Ordinance 90047, as amended, to require permits for an regulate excavations or fills adjacent to a public place and to establish fees for such permit and amending Section 25(h) of Ordinance 90047 to regulate excavations adjacent to or extending into street areas,

RECOMMENDS THAT THE SAME DO PASS.

..... Chairman

Don D. Bright S&S
Chairman

CWL/eh 9/23/69
C.F. No. 260706

..... Committee

..... Committee

Affidavit of Publication

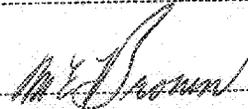
STATE OF WASHINGTON,
KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a.....

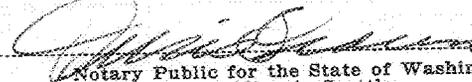
ORDINANCE NO 98197

was published on October 4, 1969



Subscribed and sworn to before me on

October 4, 1969



Notary Public for the State of Washington,
residing in Seattle.

(Note: RCW 42.28.060 states—"It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of his official seal.")

CITY NOTICES

ORDINANCE NO. 98197

AN ORDINANCE amending Sections 41 and 5 of Ordinance 98047, as amended, to require permits for and regulate excavations or fills adjacent to a public place and to establish fees for such permit and amending Section 25H of Ordinance 98047 to regulate excavations adjacent to or extending into street areas.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That Section 41 of Ordinance 98047 (Street Use Ordinance) be amended to read as follows:

Section 41(a) EXCAVATIONS AND FILLS. It shall be unlawful to leave any excavation or fill within four feet of any public place without adequate barricades and warning devices to protect the public, or to fail to maintain the lateral support of any public place or of a fill adjacent to such public place.

(b) EXCAVATION AND FILLS NEAR IMPROVED PUBLIC PLACES. It shall be unlawful to excavate or fill in excess of four feet, measured vertically, on private property within any area between the vertical prolongation of the margin of an improved public place, and a one hundred per cent (100%) slope line (45° from a horizontal line) from the existing elevation of the margin of the traveled surface of an improved public place to the proposed elevation of the private property, without first obtaining a permit from the City Engineer to do so, and no work shall commence toward such excavation or fill until a permit therefor has been issued by the City Engineer.

(c) SECURITY. An applicant for the permit provided for in Section 41(b) shall post or cause the owner or contractor to post security with The City of Seattle in an amount sufficient to cover the following:

- (1) all charges and payments due under this ordinance; and
- (2) when it can be anticipated that an earth movement might occur, the reasonable costs of the following:
 - (i) The cost of repair and restoration of any adjacent public place, including but not limited to grading, resurfacing and drainage;
 - (ii) The cost of repair and restoration of all sewers, water, and power lines and other utilities in the adjacent public place; and
 - (iii) The expense of safety precautions and emergency measures to protect the public, street utilities and any adjacent public place, including but not limited to the expense of placing of signs, barricades, and traffic detectors.

Upon notice to said applicant, the City Engineer may at any time increase or reduce the amount of the required security or waive the same as conditions warrant.

The party posting the security may elect whether the security will be in the form of a cash indemnity deposit or surety bond approved as to amount and sufficiency by the City Engineer and as to the estimates of subsection 41(c)(2), substitute in

CITY NOTICES

lieu therefor a policy of insurance indemnifying The City of Seattle for such costs.

(d) INSURANCE. An applicant for the permit provided for in Section 41(b) shall maintain in full force and effect public liability insurance in an amount sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be related to the excavation or fill covered by any such permit or the operation of equipment used in connection with such excavation or fill and naming The City of Seattle as an additional insured, or in lieu thereof, cause the owner or contractor to maintain the same. The City Engineer may require that such insurance be provided prior to issuance of the permit.

(e) INDEMNITY. An applicant for the permit provided for in Section 41(b) shall agree to at all times protect and save harmless The City of Seattle from all claims, actions, suits, losses, and expenses of every kind and description, which may accrue to or be suffered by any person or persons or property or by The City of Seattle by reason of any excavation or fill for which a permit has been issued pursuant to said Section 41(b) and shall agree to compensate The City of Seattle for damages to the street and the utilities therein, and for costs of repair, reconstruction, and restoration of the street, including but not limited to the expenses of such repair, reconstruction or restoration facilities and by-passes, traffic redirection, barricades, and other measures taken to protect the public, the street, and utilities therein.

(f) ENTRY AND INSPECTION. The filing of an application for a permit provided for in Section 41(b) or the making of an excavation or fill described in said Section 41(b), shall constitute consent by the applicant, contractor, and property owner for the City Engineer to enter upon the property at reasonable times and to inspect and investigate the soil conditions, the progress of said excavation or fill, or any facts and circumstances related to said application, permit or excavation or fill.

(g) SPECIAL PLANS. If the safety or stability of a public place may be jeopardized by an excavation or fill described in Section 41(b), the City Engineer may require special plans, specifications and proposed methods of construction to be submitted for his approval prior to issuing the permit provided for in said Section 41(b).

Approval of the plans shall not relieve the contractor making such excavation or fill of responsibility for satisfactory results and shall not reduce or affect the liability of said contractor for damages, expenses or costs which may result from said excavation or fill, the failure of shoring, or the contractor's methods of operation.

(h) CHARGES, SHORING PLANS. When special plans, specifications and methods of construction involving shoring for an excavation are submitted to the City Engineer for approval as provided herein, a charge per linear foot of shoring based on the length of the shored excavation and the average depth of the shored excavation shall be made for checking plans and field inspection as follows:

CITY NOTICES

A holder of the permit provided for in Section 41(b), feeling aggrieved by any of the following actions, charges or determinations of the City Engineer may within 10 days thereof appeal the same to the Board of Public Works by filing a written notice of appeal with the Board:

- (1) A directive by the City Engineer to increase the security required pursuant to Section 41(c);
- (2) The amount of charges for actions taken pursuant to Section 41(b) or 25(h) to protect the public;
- (3) Suspension or revocation of the permit pursuant to Section 41(k).

Any such permit holder feeling aggrieved by any action, directive or determination of the City Engineer made or taken pursuant to Section 41(i), other than the amount of charges made thereunder, may appeal from the same to the Board of Public Works by filing a written notice of appeal with the Board within 3 days (exclusive of Saturday, Sunday and holidays) from the date the direction or determination was first made, or the action first taken; PROVIDED, that such permit holder shall fully comply with the City Engineer's direction or determination pending the decision of the Board, and no compensation shall be paid or allowed such permit holder for any expenses incurred in connection with compliance. The Board of Public Works may sustain, modify or reverse any such action, charge or determination of the City Engineer and its decision shall be final.

(e) FORM OF NOTICE OF APPEAL. The written notice of appeal required in Section 41(i) shall be filed in triplicate, describe precisely the action or determination appealed, explain the error alleged therein, and propose the action desired from the Board.

Section 2. That Section 5 of Ordinance 98047 (Street Use Ordinance), as amended by Ordinance 91749, be further amended to read as follows:

Section 5. DEFINITIONS. The words and phrases herein used, except where the same shall be clearly contrary to or inconsistent with the context of the ordinance or the section in which used, shall be construed as follows:

ADJACENT PROPERTY means and includes the property abutting the margin of a public place contiguous and with reference to said public place.

ALLEYWAY means and includes a sunken space, either covered or uncovered, or a court affording room, access or light to a building.

AWNING means a protective covering attached to a building, the upper surface of which has a pitch of at least thirty degrees from the horizontal.

BANNER means and includes any pliable material stretched over or across any public place.

BUSINESS PROPERTY means and includes all properties not included in "Residence Property" defined herein.

CANOPY means a nonrigid, collapsible, nonretractable, protective covering located at an entrance to a building.

CITY ENGINEER MEANS THE CITY ENGINEER AND HIS AUTHORIZED REPRESENTATIVES.

DRIVEWAY means and includes that portion of a public place which provides access to an off-street vehicular facility through a depression in the con-

NOTICES

FOR OR BY THE CITY ENGINEER SO DIRECTS, the contractor, owner or agent SHALL make such backfill and restoration under the inspection of the City Engineer. THE CITY ENGINEER SHALL COLLECT THE COST OF ANY SUCH WORK DONE OR INSPECTION MADE FROM THE CASH DEPOSIT AND/OR SURETY BOND SUPPLIED BY SAID CONTRACTOR, OWNER OR AGENT AND/OR BY CIVIL ACTION IN THE MANNER provided by law.

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 29th day of September, 1963, and signed by me in open session in authentication of its passage this 29th day of September, 1963.

M. B. MITCHELL,
President pro tem of the City Council.

Approved by me this 1st day of October, 1963.

FLOYD C. MILLER,
Mayor.

Filed by me this 1st day of October, 1963.

Attest: C. G. ERLANDSON,
City Comptroller and City Clerk.

(Seal) By J. P. FENTON,
Deputy Clerk.

Publication ordered by C. G. ERLANDSON, Comptroller and City Clerk.

Date of official publication in the Daily Journal of Commerce, Seattle, October 4, 1963. (C-600)

TABLE FOR COMPUTATION OF CHARGES

DEPTH*	COST/FOOT FIRST 200 FEET	COST/FOOT OVER 200 FEET**
0 - 10	\$ 1.00	\$ 0.50
10.1 - 20	2.00	1.00
20.1 - 30	3.00	1.50
30.1 - 40	4.00	2.00
40.1 - 50	5.00	2.50
50.1 - 60	6.00	3.00
60.1 - 70	7.00	3.50