

RESOLUTION 98-57

A resolution of the Town Council of the Town of Taos establishing a new street cut permit/application, fee, deposit, rules and regulation.

WHEREAS, The Town of Taos has enacted the Taos Municipal Code §§12.08.010 through 12.08.300 (1998) otherwise known as the “Street Excavation Ordinance of the Town of Taos” which provides that any person must apply for a permit when disturbing in any way, the free use of the streets and requires the Town to inspect, and gives the Town authority to promulgate rules and regulations and enforce violations of this Ordinance.

WHEREAS, Pursuant to the Taos Municipal Code §12.08.080 (1998), “[i]t is unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to made any excavation in or under the surface of the street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit from the Town;

WHEREAS, the “Street Excavation Ordinance of the Town of Taos” requires that a person apply for a permit and comply or be subject to the following requirements and penalties as follows:

1. The applicant must submit up-to-date drawings, plans and profiles;
2. The applicant must deposit a surety bond in the amount of five hundred dollars (\$500.00) payable to the Town of Taos;
3. The applicant must submit a cash deposit to accompany the excavation permit application. The deposit will be based on the value of surface to be to disturbed including labor. Two-thirds of the deposit will be refunded to the permittee by the Town. The balance shall be retained by the town for twenty-four months during which the Town may use any or all of such deposit to pay the cost of any work the Town performs to restore or maintain the street, in the event permittee fails to perform such work. At the end of the twenty-four months, any money not expended by the town shall be returned to the permittee;
4. The applicant must produce satisfactory evidence in writing, that the permittee has in force and will maintain public liability insurance of not less than one hundred thousand dollars (\$100,000.00) for any one person, three hundred thousand dollars (\$300,000.00) for any one accident, and property damage insurance of not less than fifty thousand dollars (50,000.00) duly authorized by a company authorized to do business in this state;
5. The permittee must display a placard issued by the Town in a conspicuous place at the site of the excavation work;
6. The permittee is prohibited from leaving permitted work unguarded at the place of the excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance;
7. The permitte shall remove at least six inches beyond the outer limits of the subgrade that is to be disturbed, in order to prevent settlement, and a six-inch

shoulder of undisturbed material shall be provided on each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power driven, concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt paving shall be scored, or otherwise cut, in a straight line. No pile drive may be used in breaking up the pavement;

8. All damage done to existing improvements, during the progress of the excavation work, shall be repaired by the permittee and shall conform with the requirements of any applicable federal, state, and local code and ordinances and any cost incurred by the town will be charged against permittee's surety bond;
9. The permittee shall clean up are of permit during progress of and upon completion of work;
10. The permittee shall provide for the flow of all water courses;
11. The permittee shall complete work and excavation in a diligent and expedient manner and restore street to original condition;
12. The Town reserves the right to accelerate the work schedule at the time of the permit issuance. If in the Town's judgment traffic conditions, the safety or convenience of the traveling public, or the public interest requires that the excavation work be performed as emergency work, the permitte shall be required to furnish a crew of workers and adequate facilities be employed by the permittee twenty-four(24) hours a day to the end of excavation;
13. The permittee shall backfill, use materials and restore surface as required by State Law and the Town Ordinance;
14. The permittee shall be liable for damages or failure to properly restore and the Town can recovery actual and administrative costs;
15. Permittee has a duty to guarantee and maintain excavation for two years after restoring excavation; and
16. The permittee or person who excavates without a permit is subject to penalties of one hundred fifty dollars (\$150.00) for the first conviction and, upon the second or subsequent conviction, shall be fined not less then on hundred fifty dollars (\$150.00) nor more than three hundred dollars(\$300.00) for each day such violation is committed or permitted to continue, and shall constitute a separate offense.

WHEREAS, the cost of materials, maintenance, and operation of the Street Division has increased significantly over the past several years;

WHEREAS, it has become necessary for the Town of Taos to enforce a new deposit for excavation on Town property; and

WHEREAS, Section 18-53 of the Code of Ordinances of the Town of Taos provides that "the rates and charges for street cut permit shall be determined and established by the Town Council, by Resolution from time to time, and on file in the office of the Town Clerk".

NOW THEREFORE, BE IT RESOLVED by the governing body of the Town of Taos that the following street cut permit fee, deposit and rules and regulations, shall become applicable and effective upon adoption of this resolution.

1. Street Cut Permit Fee: \$25.00 (one time charge for each permit)
2. Street Cut Permit Deposit: \$500.00 (or greater dependent on the value of the project)
3. The applicant must deposit a cash or surety bond: \$500
4. The deposit in no way relieves the applicant from the responsibility of compensation to the Town for damage over and above the value of the deposit. The applicant is to request final inspection of the street in order to refund the deposit.
5. The definition of excavation includes the cutting, disturbing, pouring, breaking-up or any other manipulation of curb and sidewalk for purpose of rules and regulations and as defined in Taos Municipal Code §12.08.080 (1998)
6. The excavation site will be protected by signs, barricades, and lights as required by the "New Mexico Manual and Specifications for a Uniform System of Traffic control Devices for Streets & Highways."
7. Total street or single lane closures will require a public notice of not less than 48 hours by radio, newspaper, notification to the fire department and other emergency services and approval of a traffic control plan by the Director of Public Works.
8. The applicant has the responsibility of contacting all utilities to locate lines in the area of excavation prior to beginning excavation and is liable for any damage incurred;
9. After completion of the excavation and all work to be done in relation to the excavation, the excavation shall be restored to the original condition the street was in before excavation began, meet final inspection by the Street Superintendent, and meet Federal, State and Local requirements.
10. The Director of Public Works will prepare and provide applicants with a form informing the applicant of the requirements under the ordinances, the rules and the procedures. The above provisions, definitions, and further details to carry out what is reasonably necessary to insure the public health safety and moral and inform the applicant of rights and responsibilities.

BE IT FURTHER RESOLVED; that the governing body of the Town of Taos shall retain the right to refuse service to anyone if the moratorium is imposed by the Town of Taos due to the installation of a new street, permit violations, or other causes.

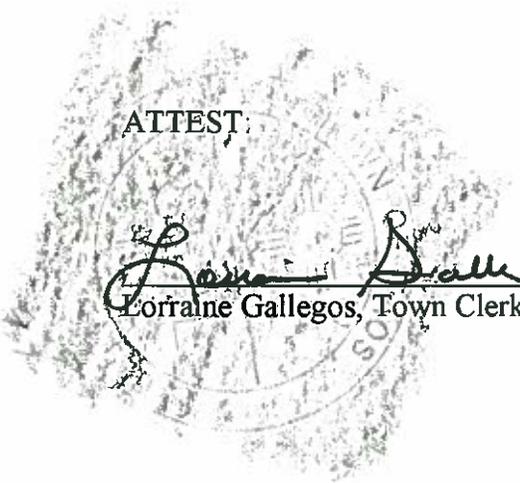
PASSED, ADOPTED, and APPROVED this 15th day of December, 1998 at the Regular Meeting of the Town Council.

TOWN OF TAOS



Frederick A. Peralta, Mayor

ATTEST:



Lorraine Gallegos, Town Clerk