

Effective February 25, 2009

12/17/2008

11/21/2008

**6-0-09**

**AN ORDINANCE**

**Amending Title 7, "Public Ways," Chapter 4, "Excavations,"  
Section 3, "Restoration of Surface after Excavation,"  
of the City Code by adding a "Pavement Degradation Fee"**

WHEREAS, the Public Works Department has determined that excavations in paved City streets degrade and shorten the expected life of the surface of the street within two (2) feet of the perimeter of the area of excavation, which increases the frequency and cost to the City for necessary resurfacing, maintenance and repair; and

WHEREAS, the Public Works Department has determined that it is in the best interest of the Citizens of the City of Evanston provide for said increases in the frequency and cost to the City by amending the text of Title 7, "Public Ways," Chapter 4, "Excavations," Section 3, "Restoration of Surface after Excavation," of the City Code by adding a "Pavement Degradation Fee."

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL  
OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That Title 7, "Public Ways," Chapter 4, "Excavations," Section 3, "Restoration of Surface after Excavation," of the Evanston City Code of 1979, as amended, is hereby further amended by adding a "Pavement Degradation Fee," to read as follows:

**7-4-3: RESTORATION OF SURFACE AFTER EXCAVATION:**

Whenever any part of any street, alley, sidewalk or other public place in the City shall be torn, dug, or taken up for any purpose, the person so tearing, digging, or taking up any earth, paving, graveling or macadamizing shall, if required by the Director of Public Works to do so, immediately upon completion of such purpose, and as fast as practicable during the accomplishment thereof, return the earth and ram and pack down the same as fast as returned to a firm and solid bearing and in a manner, if possible, that will entirely prevent any settling of such earth, and shall also relay all paving, graveling and macadamizing in a skillful and permanent manner, and in every case to the satisfaction of the Director of Public Works of the City and under his direction. All rules and regulations of the Department of Public Works adopted with reference to the relaying of pavements or replacing material removed, disturbed or dug up, in any public street in the City, shall be complied with, under a like penalty in case of noncompliance with such rules and regulations as that last above specified, and the Director of Public Works is hereby authorized to adopt proper rules and regulations for such relaying and replacing of such pavements and material, and he is hereby empowered to require such deposits of money as may be proper or necessary to indemnify the City for the cost and expense of relaying such pavements and materials. (1957 Code, sec. 42-20)

**7-4-3.1 PAVEMENT DEGRADATION FEE, PURPOSE:** The purpose of the Pavement Degradation Fee, if applicable, is:

(A) Excavations in paved streets degrade and shorten the expected life of the surface of the street in and within at least two (2) feet of the perimeter of the area of excavation, increasing the frequency and cost to the City for necessary resurfacing, maintenance, and repair. Such pavement degradation occurs regardless of how well the excavated area is restored, as the cutting of the pavement and trenching in the streets permits water seepage into the street as well as weakening pavement support around the patch, thereby accelerating the street's deterioration.

(B) The Pavement Degradation Fee offsets the substantial cost incurred by the City due to the shortened life of the street pavement when they are excavated by establishing a Pavement Degradation Fee that approximates the depreciated cost per square foot of a single roadway reconstruction and resurfacing.

**7-4-3.2 PAVEMENT DEGRADATION FEE, APPLICATION:** The Pavement Degradation Fee is applied as follows:

(A) Each person or entity receiving a Right-Of-Way Permit granting permission to excavate a public street in the City shall also, in addition to paying the applicable permit fee, pay to the City a Pavement Degradation Fee prior to issuance of said Permit.

(B) The amount of the Pavement Degradation Fee shall be based on the impacted street area, age of the street, and pavement degradation schedule.

(C) Definitions for purposes of this Section:

(1) "Impacted Street Area" means the area in square feet of the pavement restoration to the street shown in the Right-Of-Way Permit application.

(2) "Pavement Degradation Schedule" means the fee in dollars set forth in the Pavement Degradation Fee Rate Table below (7-4-3.3), applicable to the current age of the street to be excavated.

(3) "Emergency Repairs" means repairs to restore existing water, sewer, natural gas, electric, or telecommunications utility services to the applicant's property that have been interrupted due to collapse, breakage, rupture, blockage, failure or other similar reason.

(D) Only "Emergency Repairs" will be allowed in streets improved within the past three (3) years unless exempted by the Department of Public Works.

(E) It is the responsibility of the Right-Of-Way Permit holder to notify the Director of Public Works or his/her designee no later than the close of the next business day if the area of a street actually excavated by the Permit holder exceeds the dimensions stated in the Right-Of-Way Permit application, such that the understatement of the Impacted Street Area results in the Permit holder having underpaid the Pavement Degradation Fee. Such permit holder shall pay the additional amount of Pavement Degradation Fee due to the City within two (2) business days of providing such notice to the Director of Public Works.

(F) If, upon inspection of the site of an excavation for which payment of a Pavement Degradation Fee was required under this Section, it is determined by the City that the area of a street actually excavated exceeds the dimensions stated in the Right-Of-Way Permit application, such that the understatement of the Impacted Street Area has resulted in the Permit holder having underpaid the Pavement Degradation Fee, and the Permit holder has failed to provide the

notice to the Director of Public Works required in Paragraph (E) of this Section, then in addition to the payment of the additional amount of Pavement Degradation Fee required under this Section, the Permit holder shall pay a two hundred fifty dollars (\$250.00) administrative fee to the City to compensate the City for its administrative expenses related to the Permit holders failure to comply with said Paragraph (E).

(G) A permit holder who excavates the paved streets between November 15th and April 1st is required to pay an additional two hundred fifty dollars (\$250.00) resurfacing fee *in lieu* of placing the final surface bituminous surface. This will provide the City with the funds necessary to complete the final surface restoration once asphalt becomes available in the following spring.

### 7-4-3.3 PAVEMENT DEGRADATION FEE RATE TABLE:

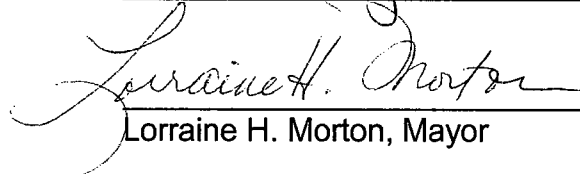
<b>Street Condition</b>	<b>Pavement Degradation Schedule</b>
One (1) to three (3) years	\$550.00 with an additional \$16.00 per square feet of Impacted Street Area over twenty-five (25) square feet per location
Four (4) to seven (7) years	\$450.00 with an additional \$12.00 per square feet of Impacted Street Area over twenty-five (25) square feet per location
Eight (8) years and above	\$150.00 per location

**SECTION 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

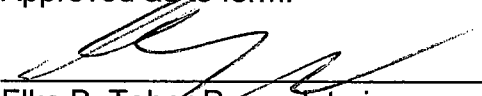
**SECTION 3:** That if any provision of this Ordinance 6-O-09 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

**SECTION 4:** That this Ordinance 6-O-09 shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

Introduced: January 26, 2009      Approved:  
Adopted: February 9, 2009      February 10, 2009

  
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Lorraine H. Morton, Mayor

Attest:  
  
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Mayre Press, Deputy City Clerk

Approved as to form:  
  
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Elke B. Tober-Purze, Interim  
First Assistant Corporation Counsel

