

Ordinance No. 01-5139

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF BILLINGS, MONTANA, BE AMENDED BY REVISING SECTION 22-302, OF SAID CODE; PROVIDING THAT SURETY BONDS FOR EXCAVATING BE IN THE SUM OF \$10,000 DOLLARS, REQUIRING LIABILITY INSURANCE BE IN THE AMOUNT OF \$750,000 PER CLAIM AND \$1.5 MILLION DOLLARS PER OCCURRENCE, ELIMINATING CONTINUATION CERTIFICATES TO RENEW THE SURETY BOND, REQUIRING APPLICATIONS FOR SUBSTITUTE SECURITIES BE MADE TO THE CITY ENGINEER'S OFFICE FOR DETERMINATION OF SUFFICIENCY, MAKING MINOR CHANGES IN STYLE AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That section 22-302 of the Billings Montana City Code be amended so that such section shall read as follows:

**"Sec. 22-302. Excavation bond and insurance required.**

(a) The bond required by section 22-301 shall be in the sum of \$10,000 dollars ~~as prescribed by council resolution~~ and shall be executed by a surety company authorized to do business in the state, conditioned to save hold the city harmless and reimburse the city for any additional cost incurred in restoring the excavation due to nonperformance by the bondholder, ~~and a certificate of public liability insurance in the amount as prescribed by council resolution conditioned to save the city harmless from any damage or injury whatsoever to any person or property of any description, however owned, by reason of leaving open any excavation or tunnel at night. Any person may furnish a yearly bond and insurance conditioned as hereinabove set forth.~~ Said surety bond shall be filed with the city clerk. Continuation certificates to renew the surety bond will not be accepted.

(b) The city shall not issue a permit required by this section until the applicant has furnished to the city a certificate of public liability insurance in the amount of \$750, 000 per claim and \$1.5 million dollars per occurrence conditioned to hold the city harmless from any damage or injury whatsoever to any person or property of any description, however owned, by reason of leaving open any excavation or tunnel at night. Said certificate of insurance shall be filed in the city engineering department with the respective permit. The city must be named as an additional coinsured on the liability insurance policy. The city shall be notified ten (10) days prior to any cancellation

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or nonrenewal of the policy. This notice of cancellation must be sent to the city engineering department.

~~(b)(c) Any person may apply to the city engineering department council for a waiver of the requirement of posting a surety bond as provided in this section by a surety company; provided, that satisfactory substitute security for faithful performance and payment is provided. The city council shall be the sole determining body as to the sufficiency of the substitute security. An application shall be made in writing detailing the reasons why the waiver should be granted and fully describing the substitute security. The city engineer or his designee shall determine whether the substitute security is sufficient. After receipt of the application the city administration shall evaluate and make recommendation to the city council. The application shall be placed on the city council agenda after evaluation by the administrative staff. The city engineer or his designee council may place whatever conditions it he deems appropriate on any grant of waiver and shall fix the term of the duration of the waiver. Any applicant aggrieved by the city engineer's determination under this paragraph may appeal in writing that determination to the city administrator within thirty (30) calendar days of the date of that determination. The city administrator's decision will be final."~~

Section 2. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinances are declared to be severable.

Section 3. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

PASSED by the City Council on first reading this 11<sup>th</sup> of December, 2000.

PASSED, ADOPTED and APPROVED on second reading this 8<sup>th</sup> day of January, 2001.



CITY OF BILLINGS

By: Charles F. Tooley  
Mayor

ATTEST:

By Marita Herold  
City Clerk