

**CHAPTER 10-3**  
**EXCAVATIONS IN PUBLIC AREAS**

**10-3-1**

**WATER MAINS PRIOR TO STREET CONSTRUCTION**

It shall be the duty of the owner of any real property fronting or abutting on any street or avenue in the City of Brandon, South Dakota, to lay and construct sewer and water mains in said street or avenue to the curb line of their respective property before the street or avenue upon which said property fronts or abuts is graded or paved or within fifteen days after passage of a resolution by the City Council declaring that the construction of the sewer and water connections on said street or avenue or portions of same is necessary, as a preliminary to the construction and maintenance of a tar, bituminous or concrete paved street surface on said street or a portion thereof.

**Legislative History:**  
1990 Revisions.

**Authority:**  
SDCL § 9-45-1; See Also  
§§ 9-45-35, 9-45-39  
and 9-29-3.

**10-3-2**

**FORCED CONSTRUCTION OF MAINS; PROPERTY ASSESSMENTS**

In case of the owner of any property fronting or abutting on any street or avenue adjacent to a sanitary or combined sewer shall fail, neglect or refuse to lay and construct sewer and water connections from the sewer and water mains on said street or avenue to the curb line as provided in section § 10-3-1, before said street or avenue is graded and paved or within fifteen (15) days after passage of a resolution or necessity providing for said grading and paving, then the City Council shall have the option of causing said sewer and water connections to be constructed and installed and to assess the cost thereof against the property to be served.

**Legislative History:**  
1990 Revisions.

**Authority:**  
SDCL § 9-45-1; See Also  
§§ 9-45-35, 9-45-39

**10-3-3**

**MONEY DEPOSIT PRIOR TO EXCAVATION**

At any time that a property owner or person other than a contractor operating under terms of a construction contract with the City and related bond, who desires to make a new sewer or water connection or to repair, enlarge or alter an existing connection, shall before making an excavation in said street or avenue either by tunnelling or open cut secure a permit from the City Auditor and make a money deposit with the City Treasurer in an amount which is agreeable to the City Council.

**Legislative History:**  
1990 Revisions.

**Authority:**  
SDCL § 9-45-1; See Also  
§§ 9-45-35, 9-45-39

### 10-3-4

#### EXCAVATIONS DURING WINTER

It shall be unlawful to make any excavations in any street or highway within six (6) feet of any laid water pipes while the ground is frozen, or to dig up or uncover so as to expose to frost any of the water pipes or sewers of the City, except by special permission of the City Council.

**Legislative History:**  
1990 Revisions.

**Authority:**  
SDCL § 9-47-2; See Also SDCL  
§ 9-30-1.

### 10-3-5

#### EXCAVATION SAFETY

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the City to make or cause to be made any excavation on said lot or parcel of land, except the same be securely guarded so as to prevent the injury of any person or persons or animals passing upon or along said sidewalks, streets, alleys or public grounds or traveled path or roadway.

**Legislative History:**  
Ordinance No. 13, §13-18,  
4/22/74.

**Authority:**  
SDCL Ch. 9-30 generally.

### 10-3-6

#### EXCAVATION PERMITS, DEPOSITS AND LIABILITIES

Any person desiring to open the surface or tunnel under any street, avenue, alley or public roadway in the City of Brandon shall secure a permit from the City Auditor or the Director of Inspections and make a financial deposit with the City Treasurer as herein required. The amount of the deposit or fee charged for the connection and the service or privileges pertaining to same are cumulative and computed as follows:

If a street that has been surfaced with tar, bituminous material or concrete is to be opened or tunneled under a permit must be obtained from the City. The applicant or permit holder shall be responsible for lights and guards around the opening and for all damage claimed or accruing to persons or property as a result of the desired street opening. The expense of opening the pavement and back filling the ditch to original compaction, including supervision and inspection thereof, will be paid by the applicant. A deposit in the amount of five hundred dollars (\$500.00) shall be deposited with the City Treasurer and shall be returned to the applicant upon satisfactory completion of the work.

All sewer or water service lines constructed under the provisions of this statute shall comply with all rules and regulations of the City and of the State Board of Health with respect to sewer and water main construction or use of same.

**Legislative History:**  
Ordinance No. 13, §§13-1,  
13-2.

**Cross Reference:**  
The Brandon City Code, Title Seven.

**Authority:**  
SDCL §§ 9-32-1, 9-32-10; See  
Also §§ 9-45-35, 9-45-39 and 9-29-3.

### 10-3-7

#### APPLICATION FOR PERMIT

Before any permit is issued under the provisions of this article, the person requiring the

same shall make application to the City Finance Officer or the Director of Inspections which shall state where such excavation is to be made, the extent thereof, in front of which lot or lots and the purpose of such excavation.

**Legislative History:**  
Ordinance No. 13, § 13-3, 4/22/74.

**Authority:**  
SDCL § 9-45-1.

### **10-3-8**

#### **PERMIT FEE**

The fee for the permit required by this article shall be fixed by the resolution of the City Council. Such amounts shall be paid to the City Finance Officer or the Director of Inspections and his receipt therefor presented to the City Council before the issuance of a permit; provided, however, that when the extent of the excavation cannot be determined in advance of the making thereof, the Council may issue a permit and provide for collection of the fee after the amount thereof has been determined.

**Legislative History:**  
Ordinance No. 13, § 13-4, 4/22/74.

**Authority:**  
SDCL § 9-45-1.

### **10-3-9**

#### **CONDITION OF ISSUANCE**

In the event that any permit required by this article is for excavating in or under any street, parking or sidewalk, such permit shall contain a statement and shall be issued only upon the express condition that the permittee shall refill the excavation in accordance with the instructions of the City Council and restore the pavement or surfacing, as the case may be, to its former condition and maintain it in such condition for a period of three (3) years from the time of such completion of the work authorized by such permit.

**Legislative History:**  
Ordinance No. 13, § 13-5, 4/22/74.

**Authority:**  
SDCL § 9-45-1.

### **10-3-10**

#### **REFILLING EXCAVATIONS**

The City Council shall adopt, amend and enforce a code of rules and regulations which shall set forth the manner in which various types of excavations shall be back filled or refilled and the manner in which pavement, or other street surfacing, shall be replaced. All rules and regulations so made shall be subject to the approval of the City Council.

**Legislative History:**  
Ordinance No. 13, § 13-6, 4/22/74.

**Authority:**  
SDCL § 9-45-1.

### **10-3-11**

#### **RESTORING PAVEMENTS OR STREET SURFACING TO FORMER CONDITIONS**

It shall be the duty of the City to keep on file all copies of permits issued hereunder and to inspect from time to time all pavement or other street surfacing, disturbed pursuant to such permits. If such pavements or surfacing are not restored and maintained as nearly as possible to the original condition, notice thereof in writing by regular mail shall be given the permittee, who shall put the same in good condition within a maximum of three (3) days. If the permittee fails after notice is given to restore and maintain such

paving or the surface thereof, the City Council may make the necessary repairs and such permittee shall pay the costs thereof, and until he pays the same no other permit shall be issued to him or to any person in his behalf.

**Legislative History:**  
Ordinance No. 13, § 13-7, 4/22/74.

**Authority:**  
SDCL § 9-45-1.