

# 858

AN ORDINANCE ESTABLISHING PROCEDURES FOR APPROVAL OF PROJECTS REQUIRING OBSTRUCTION OF, BORING UNDER, OR EXCAVATION IN ANY CITY STREET, RIGHT OF WAY OR EASEMENT; PROVIDING FOR PAYMENT THEREOF; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, THE CITY OF MONTICELLO AND ITS RESIDENTS HAVE SUFFERED DAMAGE TO ITS INFRASTRUCTURE ASSETS AS A RESULT OF UNREGULATED EXCAVATION; BORING AND CONSTRUCTION WITHIN ITS RIGHTS OF WAY AND EASEMENTS; AND

WHEREAS, THE CITY IS ENTITLED TO JUST AND REASONABLE COMPENSATION IN THE FORM OF PERMIT FEES FOR ANY USE OF CITY STREETS, RIGHT OF WAYS AND EASEMENTS AND TO BE NOTIFIED WHEN SUCH BORING, EXCAVATION AND CONSTRUCTION ACTIVITY IS OCCURRING;

WHEREAS, ESTABLISHING FORMAL PROCEDURES AND ISSUANCE OF PERMITS ALLOWING ACTIVITIES WITHIN OR UPON THE CITY STREETS, RIGHTS OF WAY AND EASEMENTS WILL ALLOW THE CITY TO SAFEGUARD THE RIGHTS OF THE CITY AND THE PUBLIC TO UNOBSTRUCTED USE OF CITY EASEMENTS AND RIGHTS OF WAY.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTICELLO, ARKANSAS:

SECTION 1: PERMIT REQUIRED-That it shall be unlawful for any person, corporation, utility company or contractor to make or cause to be made any excavation, borings, or otherwise perform work (the "Activity") in around or under any street, alley, right of way or easement of this City without having first having obtained a written permit from the City of Monticello.

SECTION 2: FEES- That a fee in the amount of \$500.00 shall be paid at the time of application for a permit under the provisions of this section; except that fee may be waived if the work is being performed at the direction of the City of Monticello or by the agents of the City of Monticello. Such sum shall be paid into the general fund of the City of Monticello and **there shall be no fee required by individual property owners to maintain or perform work on their own property.**

In addition, the permittee will be required to pay any and all fees otherwise assessed for street borings pursuant to other rules, regulations, and laws of the City.

SECTION 3: SUPERVISION Any activity undertaken and in accordance with this ordinance shall be reported by the Permittee to the City Officer ("City Officer" being referred to as the Mayor

or the Mayor's Designee(s) for the purpose of this Ordinance) prior to the commencement of the work and is subject to supervision by the Director of public works or the Mayor or his designee.

SECTION 4: (A) Before any permit required by subsection one shall be issued, the applicant or his duly authorized agent shall submit a written permit application to the City. The application shall contain plans, specifications and descriptions or comments necessary to show the location, design and layout of the proposed activity and the relationship of these improvements to the City streets, alleys, rights of way and easements, plans for traffic control, and a statement on how appropriate agencies will be notified of the time construction will occur, and plans for the restoration and / or repair of the property.

(B) All parties seeking a permit shall be required to produce evidence of the following insurance coverage: (i) general liability coverage with minimum limits of one million dollars per occurrence and two million dollars in the aggregate; (ii) commercial automobile coverage with limits of not less than five-hundred thousand dollars; and (iii) worker's compensation insurance or exemption therefrom.

(C) When such a written application and plans conforming to subsection (4)(A) and other provisions in this section have been duly submitted, and the fee required is paid, the City shall approve or reject said improvement within 15 calendar days following submission to them. In the event of rejection, the City will specify the reasons, therefore, and shall permit the applicant the opportunity to cure said objections. A copy of the approved application shall be on file in the Monticello City Clerk's office with a copy of the required bond.

(D) In determining whether to accept or reject such application, the City representative shall take the consideration the location of existing public utilities, and plans for any future location or relocation of public utilities, or other usage by the City.

SECTION 5: (A) The City representative may order removal and or replacement of any Activity, work, and/or materials found to be in noncompliance with the permit or provisions of this section and may order completion of permanent work within a

specified time.

(B) The City representative may order the permitted entity to suspend work on any job whenever he shall deem such suspension to be necessary to ensure good work or when the public interest otherwise requires such suspension

(C) The City representative is authorized to give all notices and instructions with reference to the work either to the permit agent on the permit or to any person in charge of the permitted job.

(D) After all Activity and work is completed, the permittee shall remove all rubbish, waste, and excess materials from the construction area and restore the area to its previous condition or as an approved in the permit or by the property owner.

(E) All improvement shall comply with applicable laws, rules, and regulations.

(F) It is a violation of this Ordinance for any Permittee or agent of any Permittee to leave, keep, store, or board any equipment or other personal property on the property of the City or any private party without the permission of the property owner. If any person, public or private corporation, utility company, contractor or other entity does faulty work in the restoration and or repair of the property to its condition prior to the improvement or as agreed upon, or otherwise violates the provisions and requirements of this ordinance, the City shall reserve the right to refuse to allow that person, public or private corporation, utility company, contractor or other entity to work on the streets or easements of the City of Monticello.

(G) Upon completion and cleanup of the permitted site, the permitted entity shall notify the City representative of completion and readiness for final inspection

(H) If during the final inspection, the City representative determines that the work and or material at the site is found to be in noncompliance with the permit or provisions of this section, then the City representative shall notify the permit holder in writing of any remedial actions required. If the permit fails to correct noncompliant work with within 30 days of notice from the City representative, the City representative shall have noncompliant work repaired at the

permit holder's expense and shall pursue penalties in accordance with the requirements of this ordinance.

SECTION 6: (A) **Street crossings.** Crossing of existing streets by open cut methods is not permitted except under certain conditions when approved by a City of Monticello representative. Conditions where open cuts of the pavement may be permitted, in the discretion of the City, are:

1. When longitudinal utility lines are located under the pavement; or
2. When it is determined by the City representative, that boring is not possible

(B) All boring under City streets shall be located at least 36 inches below the pavement surface or 36 inches below the bottom of roadside drainage ditches, whichever is a greater depth.

(C) All cuts of City, streets or pavement, deformed or damaged by boring shall be repaired and compliance with applicable and reasonable standards and approved by the City public works director before a determination is made that the work is complete.

(D) **Street Definition:** for purposes of clarification, 'streets' are defined as any known street in the City of Monticello that is owned and maintained by the City of Monticello. This does not include any state or U.S. highway, which are governed in matters such as this by the Arkansas Department of Transportation.

SECTION 7: **Appeals.** Any applicant for a permit performing work in the City of Monticello consistent with the types of activity addressed in this ordinance, may appeal any decision of the City of Monticello to the City planning commission by filing a written notice of intention to appeal with the chairman of the planning commission within (30) thirty days, following the decision to be appealed. If the Planning Commission upholds the rejection, modifications, or imposes conditions, which are not acceptable to the applicant, the applicant shall have the right to appeal to the City council, whose decision is final.

SECTION 8: **Penalties.** Violation of any of the provisions or regulations of this ordinance shall be punishable as a misdemeanor with a fine of up to \$250 each day that said violation continues

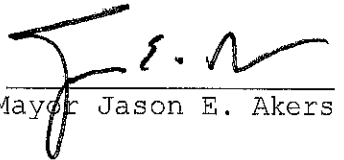
shall be a separate fence and each day, subsequent to the first day of the violation shall be punishable by fine up to \$250 per day.

SECTION 9: **Emergency Clause.** The City of Monticello and its residents can be better served by the adoption of this Ordinance; and being necessary for the immediate preservation of public health, safety and welfare; an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from

and after its passage and approval.

Passed and approved this 24 day of September 2024

ATTESTED:

  
Mayor Jason E. Akers

  
City Clerk / Treasurer