

ORDINANCE NO. 05-03

AN ORDINANCE PROVIDING FOR A COMPREHENSIVE PROTOCOL FOR RESTORATION OF EXCAVATIONS AND CUTS IN STREETS OR ALLEY WAYS IN THE CITY OF CAMMACK VILLAGE

WHEREAS, the City Council of the City of Cammack Village deems it necessary and appropriate to provide a comprehensive protocol for restoration of excavations and cuts in streets or alley ways.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMMACK VILLAGE, ARKANSAS:

Section 1. Definitions.

City means the City of Cammack Village, Arkansas

Applicant means any person, firm, corporation, partnership, or association of any nature whatsoever, including any governmental entity, seeking a permit to make, or cause to be made, any excavation, cut or boring in any city street, alley, or other public property.

Mayor means the Mayor or designee, responsible for enforcing the terms of this article.

Minor maintenance work means work done by a permit holder that involves thirty (30) continuous linear feet or less of the paved portion of the public right-of-way.

Permit holder means any applicant that has been granted a permit pursuant to the terms of this article.

Public right-of-way means any city street, alley or other public property.

Section 2. Findings and purpose.

The City is getting ready to undertake a substantial program of repairs to the existing streets. The City Council finds that the city has experienced development, construction and maintenance operations by utilities and other entities which require excavations and cuts in public streets, alleys, and other properties. These excavations or cuts occur because of such things as the installation of water lines, sanitary sewers, drainage structures, other utilities, or the replacement, improvement or maintenance of such systems. When these excavations or cuts occur, significant problems face the city because of the vast number of cuts, the occasional poor restoration techniques, or the multiple cuts in the same area by different entities because there is no need to contact other utilities. As a result, there is a real potential for serious deterioration of the paved rights-of-way and, on occasion, a possible hidden threat to the public safety. As a result, an ordinance is required that sets forth in detail the responsibilities of any entity that uses the public rights-of-way, through franchise or other legal authority, and in the course of, or in furtherance of, that use, causes excavations or cuts to occur.

Section 3. General permit requirement.

(a) Except as set forth in subsection (b) below, it shall be unlawful for any person or entity, to make or cause to be made any excavation or cut in the public right-of-way without having first obtained a written permit from the City.

(b) A written permit is not required prior to an excavation, cut or boring of any public right-of-way if, and only if:

- (1) The excavation, cut or bore is made as a result of an emergency situation in which the destruction of life or property is imminent or is necessary to restore basic service, and
- (2) The Mayor is notified at the earliest possible moment, but in any event, no later than the first business day after the excavation, cut or bore is made.

(c) The provision of this ordinance that requires notice to other utilities or entities before a permit can be granted shall not apply to minor maintenance work.

Section 4. General standards.

(a) The Mayor shall direct that a process for obtaining permits to make excavations, cuts or bores in the public right-of-way is established and published. This process shall include, among other things:

- (1) The name of the appropriate person to contact in order to obtain a permit, or to report an emergency excavation or cut;
- (2) The person that will be responsible for the day to day administration and enforcement of this article;
- (3) The process for notifying other public utilities of an intent to make an excavation or cut in the public right-of-way in order to participate in the excavation or cut;
- (4) The time frame for submitting plans to the appropriate person for the work to be done, including the restoration work required, with notice that no permit shall be issued until the review process has been completed;
- (5) The person responsible for approving the barricade plan to be in place while the excavation, cutting or boring occurs;
- (6) The temporary and permanent restoration requirements to be met during the course of, or the completion of, the excavation, cutting or boring including, but not limited to, the type and grade of materials that shall be required.

(b) *Boring preferred.* Notwithstanding any other provision of this article, it is the preference of the city that boring or pushing of utility services under city streets, alleys, or other public property, occur instead of excavations or cuts. Even so, the permitting process set forth in this article shall be met, and all tunneling plans shall be subject to approval of the Mayor.

(c) *Surety bond.* If the bond is not required by the applicant's franchise agreement, the Mayor shall determine the amount of any surety bond that is appropriate to ensure the completion of a project and fulfillment of all requirements set forth in this article and the procedures adopted pursuant to this article:

- (1) The applicant shall post the required bond as an additional condition to the issuance of a permit to excavate, cut or bore in the public right-of-way; and,
- (2) The failure to post this bond in a timely manner shall be the basis for denying a permit, or the basis for revoking a permit previously issued; and,
- (3) This surety bond shall remain in place at least for the period of time necessary to complete and inspect the work set forth in the permit and, may be required for such additional period of time as deemed appropriate by the Mayor.
- (4) Notwithstanding the above listed requirements, if the permit application is only for minor

maintenance work, a permit may be issued without further review to an applicant who has a ten thousand dollar (\$10,000.00) corporate surety bond on file with the city clerk, provided that after the issuance of the permit, additional surety may be required if the Mayor determines that such security is necessary to ensure the completion of the project.

(d) *Fees.* The applicant for a permit to excavate, cut or bore in the public right-of-way shall, as a condition of any permit, pay a fee according to the provisions of sections 5 and 6 of this ordinance.

(e) *Limitations on application by mail.* The Mayor may permit applications for permits to be made by mail, provided that no mail-in permit request shall be accepted in the following instances:

(1) Excavations, cuts or bores in street intersections for which there are traffic signals in place or under construction;

(2) Excavations, cuts or bores in a part of the public right-of-way that is the subject of a major construction, maintenance, or replacement project currently under review by the City; or

(3) Excavations, cuts or bores in an arterial or collector street, as defined in the master street plan, if at anytime during the construction process, the work requires a total street closure.

(f) *Paint or marking compounds.* No permanent paint or marking compound shall be used to locate the right-of-way, or for any other purpose associated with the boring, excavation or cut of the public streets, alleys, or public property. Any temporary paint or marking compound used shall be of a type that will deteriorate over time, but in any event, will not be discernible thirty (30) days after it is applied regardless of the date that work under any permit is completed.

(g) *City signs, conduits or facilities to be undisturbed.* No work done under a permit issued pursuant to this article shall disturb any city signs, conduits, or other facilities unless expressly permitted by the Mayor. Any such disturbance that happens incidental to the construction activity shall be immediately restored by the Contractor to its original condition or better as required by the Mayor.

(h) *Minimum width.* All excavations or cuts in paved surfaces shall have a minimum uniform width of twelve (12) inches unless a different width is expressly authorized by the Mayor. All excavations or cuts in paved surfaces shall be smoothly cut or sawed and shall have a neat appearance.

Section 5. Restoration.

(a) *Restoration required.* Any boring, excavation, or cut, made pursuant to the terms of this article shall be restored. Temporary restoration shall occur immediately upon completion of the work that required the boring, excavation or cut. Permanent restoration shall be completed by the applicant or, if agreed to in writing with the Mayor, shall be completed by the City, at the applicants expense.

(b) *Resurfacing.* The applicant shall resurface the full width of any street lane and replace pavement markings in the public right-of-way where there has been an excavation or cut. If the city has scheduled a resurfacing project which includes the applicant's permitted area, the applicant and the Mayor may contractually agree for the applicant to pay a proportionate share of the city's costs of resurfacing rather than requiring the applicant to resurface the area. Resurfacing shall not be required for minor maintenance.

(c) *Temporary restoration.*

(1) No materials removed from boring, excavation, or cut, shall be used as backfill material.

This limitation applies to pieces of broken concrete or asphalt.

(2) The trench backfill shall be placed in accordance with paragraph (c) (4) below.

(3) The surface course shall consist of a two inch application of cold mix asphalt as described in the Standard Specifications for Highway Construction of the AHTD, current edition, in Section 411 - Asphalt Concrete Cold Plant Mix for all paved streets.. For gravel streets and alleys, the top six (6) inches of backfill material shall meet Class 7 of the most current Arkansas State Highway Commission Standard Specifications, and shall be compacted to conform to the surrounding surface.

(4) The applicant is required to use the following as backfill material: Lean mix concrete as specified in the Standard Specifications for Highway Construction of the AHTD, current edition, in Section 206- Flowable Select Material. The applicant is required to provide and place the material in accordance with the Standard Specifications. The mix design shall be adjusted so that the backfill material achieves the desired support characteristics, but is also removable with conventional excavation equipment (rubber tired backhoe.) Special pipe bedding, if desired by the applicant, shall be thoroughly wetted and mechanically compacted around and under the haunches of the pipe, up to not more than one half the pipe diameter above or below the installed utility pipe. The applicant's trench details, compaction specifications, and pipe laying specifications shall be provided by the applicant and approved by the Mayor as a part of the permit application/review/approval process. Metal plates capable of supporting all types of street traffic shall be installed immediately upon the placement of the fill, and these plates shall remain during the setting time of the flowable fill. The plates shall be anchored into the adjoining pavement in a manner acceptable to the city. Plates not satisfactorily installed shall be corrected immediately.

(5) The applicant is wholly responsible for making temporary restorations consistent with the standards set forth in this article. Any temporary restoration must be of sufficient quality, as determined by the Mayor, to bring the city street, alley, or public property, back to its original usefulness and must be capable of supporting normal traffic use for a period of 35 days. If the city plans to do significant work to that street within a year of the completion of the restoration, then the applicant must maintain the installed pavement for that period of time.

(6) Inspections shall be made by the city of any temporary restoration. If the temporary restoration does not meet the standards of this article or the surface in any way exhibits signs of failure, then the permit holder shall be required to correct the restoration within forty-eight (48) hours, including as necessary removal and replacing all backfill and pipe bedding if required.

(7) Any temporary restoration shall be replaced by the applicant with the appropriate permanent restoration within thirty-five (35) days of the date of issuance of permit.. Any temporary restorations remaining after that time shall be repaired by the city and the cost of such repair shall be paid by the permit holder or shall be claimed from the surety bond required pursuant to this article. The Mayor shall grant an extension of the thirty-five (35) days if a delay is caused by inclement weather, but only to the time extent of the delay caused directly by the inclement weather. In all cases, the applicant will be responsible for temporary repairs until permanent restoration is in place.

(d) *Permanent restoration.*

(1) Unless otherwise agreed to in writing by the Mayor and the applicant, the applicant shall make all permanent restorations of any street or alley pavement in which there has been a boring,

excavation, or cut made pursuant to this article.

(2) Permanent restoration of concrete or asphalt streets shall be as follows:

a. Except as set forth in this subsection, all backfill and compaction requirements shall comply with the above sections concerning temporary restorations; and

b. Backfill material shall be removed to a depth of eight (8) inches for concrete streets and ten (10) inches for asphalt streets. Further,

1. **If the street is concrete**, eight (8) inches of three thousand (3,000) pound per square inch Portland Cement concrete, meeting the specifications of the Arkansas Highway Department, shall be placed to provide the final restored surface. The concrete shall be supported upon a minimum of 12 inches of undisturbed subgrade outside of each side of the trench.

2. **If the street is asphalt**, eight (8) inches of three thousand (3,000) psi Portland Cement concrete shall be placed to within two (2) inches of the street surface. The concrete shall be supported upon a minimum of 12 inches of undisturbed subgrade outside of each side of the trench. As soon as the concrete has cured, a bituminous tack coat shall be applied to the concrete and the sides of the cut, and then two (2) inches of Asphaltic Concrete Hot Mix Surface Course (1/2"), meeting current Arkansas State Highway specifications, shall be applied.

3. If the surface is gravel, gravel shall be added as required and compacted to conform with the surrounding surface.

4. The permanent street repair shall consist of a full lane (1/2 street), 2-inch ACHM Surface Course overlay as described in item 2 immediately above shall be required when the length of a permitted trench repair exceeds 250 feet. Arbitrary changes in the pipe alignment outside of the curb line and back in for the purpose of avoidance of this overlay requirement will not suspend the requirement of the half street overlay. Similarly, if the new pipe line trench repair is situated upon the center line of a street, then the required permanent street repair shall consist of the required asphaltic overlay covering the entire street from curb to curb.

(e) *Notice.* Applicants authorized, or required, to make permanent restorations pursuant to this article shall notify the Mayor in writing delivered to City Hall on the first business day after the completion of the permanent restoration for each permit.

(f) *Sidewalks, driveways or curbs.* All removed or undercut sidewalks, driveways and curbs shall be restored by the permit holder in accordance with this article and any other applicable ordinance. The applicant shall be responsible for protecting any shoulders, ditches, culverts, and other drainage structures in the work area and, if damaged in any way whatsoever during the time of the permit, shall make all necessary repairs. Notification of completion shall be in compliance with the standards established by the Mayor.

(g) *Grasses and vegetation.* To the extent possible, the applicant shall restore or replace all planted grasses with solid sod to match the removed grass and similar vegetation to match all removed vegetation, including trees of the same height and character. The Mayor shall permit modifications to this aspect of the restoration plan in appropriate cases. Notification of completion shall be in compliance with the standards established by the Mayor.

(h) *Excess material or debris.* When any temporary or final restoration is completed, all excess material, debris, mud, or other foreign materials shall be removed from the street, alley, or other public property involved in the permit, and the surface shall, to the satisfaction of the Mayor, be restored to its original condition.

(i) *Agreements for restoration not prohibited.* Nothing in this article shall prohibit the Mayor

from entering into written agreements with any permit holder concerning the restorations, provided that the terms of any such agreements shall comply with the requirements of this article or shall be determined by the Mayor to utilize new procedures that comply with the purposes of this article, and, provided further, that the city shall receive a reasonable inspection fee for the final inspection of any work done pursuant to such an agreement.

Section 6. Permits and fees--Basis for assessment.

(a) The Mayor shall issue all permits for boring, excavations, or cuts in the public right-of-way as follows:

(1) Any work involving extensive longitudinal cuts for the purpose of installing, maintaining or repairing trunk or main lines shall require multiple permits;

(2) Separate permits shall be required for all service lines;

(3) Permit limits shall be determined by existing or planned features such as manholes, hand holes, junction boxes, directional changes, isolated excavations to access a main, and street intersections, but in any event shall not exceed three hundred (300) linear feet.

(b) **Permit fees** for each boring, excavation or cut, shall be \$75 dollars (\$75.00) per each boring, excavation or cut.

(c) **Inspection fees** shall be charged at the rate of sixty-five (\$65.00) per square yard of completed trench repair, regardless of width.

(d) If the applicant does not do the final restorations, then in addition to any other fee set forth in this article, the city shall bill the permit holder the actual cost of such restoration, and payment shall be due upon receipt of this bill.

Section 7. Shared excavations or cuts.

The city has a vested interest in assuring that any disruption of the flow of traffic, or the digging of any trench, excavation, or cut, in the paved portion of the public right-of-way, be kept to a minimum. In order to facilitate this interest, the city shall provide notice to any other utility or entity known to seek permits under this article that an application for a permit for other than minor maintenance has been made. Final approval of any permit shall be withheld for fifteen (15) calendar days so any other utility or entity that desires to do so may make arrangements to simultaneously excavate, cut, lay conduit, or place equipment in the paved portion of the public right-of-way.

Section 8. Premiums for Cuts and/or Excavations to Recently Improved Streets

For minor maintenance only, in addition to any other cost for fees set forth in this article, whenever an applicant seeks a permit pursuant to the terms of this article that involves the excavation or cut in the paved portion of the public right-of-way that has been improved by paving, reconstruction, or resurfacing within the immediately preceding five-year period, the applicant shall be required to pay the city the larger sum of two hundred dollars (\$200.00) per square yard of excavation, or cut, or a minimum fee of five hundred dollars (\$500.00) for each excavation or cut made within twelve (12) months of the date the surface was paved, reconstructed, or resurfaced. In the subsequent twelve month periods, this premium shall be:

Period	Basic fee per square yard	Minimum fee
13-24 months	\$160.00	\$400.00
25-36 months	120.00	300.00
37-48 months	80.00	200.00
49-60 months	40.00	100.00

Section 9. Penalties.

(a) The failure of any person, firm, corporation, governmental entity, or association of any kind to comply with this article, shall result in a penalty of five thousand dollars (\$5,000.00) and a premium fee equal to twice the amount of any permit fee required by this article. Failure to comply means that a person, firm, corporation, governmental entity, or association of any kind, fails to seek a permit to bore, excavate, lay conduit, or place equipment in any public right-of-way prior to beginning such activity.

(b) Failure to comply with the construction requirements of this ordinance shall result in the immediate stoppage of the work after public safety considerations have been addressed and acted upon by the permittee to eliminate all risks to the public as a result of his activities. An assessment of the violation shall be made by the Mayor, and appropriate corrections shall be defined in writing by the Mayor to the permittee. The costs associated with this work stoppage action by the City shall be borne in full by the permittee. Civil penalties determined by the Mayor as a result of the violation shall also be paid in full by the Contractor prior to the resumption of utility construction work or related street repairs.

Section 10. Street Repair and Improvement Fund Established

All funds collected as a result of this ordinance shall be set aside in an accumulating street fund that accumulates from year to year, said fund to be designated for street repair and street related improvements, purposes, and uses only. Such uses include but are not limited to: submittal reviews, construction inspection costs, keeping records of permits issued as a part of this ordinance, and repairs of future defects in streets.

Section 11. Revocation Clause

Any ordinance or parts thereof found to be in conflict herewith are repealed to the extent of the conflict. Any part of this ordinance declared void or unconstitutional shall not affect the remaining parts of the ordinance.

Section 12. Emergency Enactment Clause


It is hereby found and declared to be a fact that improper and negligent methods of making and refilling excavations in public streets, alleys, and other public ways and grounds are frequently

the cause of serious accidents endangering the lives and property of citizens, and this ordinance being necessary for the immediate preservation of the peace, health, safety, and welfare of the citizens and inhabitants of Cammack Village, Arkansas, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

ADOPTED:

DATE: 5/10/05

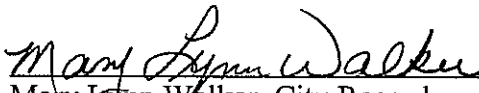
APPROVED:



Harry A. Light, Mayor

ATTEST:

DATE: 5/10/05



Mary Lynn Walker, City Recorder