

**ORDINANCE ESTABLISHING EXCAVATION, DIGGING, AND DIRECTIONAL  
BORING PERMIT PROCEDURES AND ENFORCEMENT**

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF  
ALDERMEN OF THE CITY OF WINONA, MISSISSIPPI, AS FOLLOWS:**

**Section I. Definitions**

- A. Excavation:** Excavation is the act or process of digging, especially when something specific is being removed or installed in the ground.
- B. Digging:** To break up and move earth with a tool or machine, or with hands.
- C. Directional Boring:** Directional boring, also referred to as horizontal directional drilling (HDD), is a minimal impact trenchless method of installing underground utilities such as pipe, conduit, or cables in a relatively shallow arc or radius along a prescribed underground path using a surface-launched drilling rig.

**Section II. General Requirements**

In addition to complying with all applicable regulations and requirements of state, county and municipal authorities, every person or entity who shall engage in excavation, digging, and directional boring of any kind on public thoroughfares or utility easements shall:

- (1) Obtain an excavation permit from the city building department.
- (2) Plan the excavation to avoid or minimize interference with or damage to underground utility lines and facilities in or near the excavation area.
- (3) Provide a video inspection of the digging, excavation or boring performed, at the person or entity's cost, if said activity crosses over any existing pipe or underground line owned or maintained by the City of Winona; this video shall be provided to the head of public works for the City of Winona for approval. In the event that a pipe or line of the city is damaged, the person or entity agrees to make any and all necessary repairs.
- (4) Notify immediately the operator of any underground utility lines and facilities that may have been damaged or dislocated during the excavation work.
- (5) Call Mississippi 811 before the commencement of work to have all utilities properly marked before work starts.
- (6) Require a casing to be placed by the person or entity if boring is conducted underneath a street.
- (7) Install and maintain appropriate erosion control measures for the duration of the excavation.
- (8) Clean up any trash, debris, and construction materials left over the excavation area.

**Section III. Permit required**

It shall be unlawful for any person, contractor, utility or any branch or

department of the city to perform any work on or under the surface of any right-a-way of any dedicated street or utility easement existing in the city or may exist in the future without first obtaining an excavation permit before the commencement of work. The word "street" as used in this article means and includes any street, alley, road or other public way within the city. The person or company doing the actual excavation and directional boring is the one who is required to obtain a permit and must provide a bond in the amount of 1.5 times the construction costs to cover any repairs to public facilities. Said bond may be waived by the governing authority upon determination of the financial condition of the applicant.

#### **Section IV. Administrative guidelines for permit issuance**

The city building department is authorized to promulgate administrative guidelines for the issuance of excavation permits and to charge an appropriate fee to cover the cost of issuing such permits. Such administrative guidelines shall include the notification to all public utilities of the proposed excavation work.

#### **Section V. Emergency work**

The permit provisions of this article shall not apply to any person making an excavation at times of emergency involving danger to life, health or property. However, every person who shall engage in an emergency excavation shall take the necessary and reasonable precautions to avoid interference with or damage to existing underground utility lines and facilities and shall notify as promptly as possible the operators of utility lines and facilities in and near the excavated area.

#### **Section VI. Marking of line locations by utility**

A utility, upon receiving notification of excavation work, shall, within a reasonable time, not longer than 48 hours, make investigation to determine the location of its pipelines in the area of the proposed work and mark by some reasonable and customary means the location of the utility line in advance of and during the work, or advise that marking is not necessary.

#### **Section VII. Fines and Penalties**

- (A) Any person or contractor company that willfully violates any provision of this ordinance shall be guilty of a misdemeanor, and may be punished as provided in Municipal Code of the City of Winona. The fine shall be of no more than one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding ninety (90) days, or as otherwise authorized by law. Each day that any violation of this ordinance exists, shall constitute a separate offense.

#### **Section VIII. Severability, Conflict, Effective Date, and Publication & Recording**

- (A) **Severability.** Should any section, clause, paragraph, provision, or part of this ordinance for any reason be held invalid or unconstitutional by any court of competent jurisdiction, this act shall not affect the validity of any other section, clause, paragraph, provision, or part of this ordinance. All provisions of this ordinance shall be considered separate provisions, and completely severable from all other portions.
- (B) **Conflict.** In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of the City of Winona, Mississippi, existing on the effective date of the ordinance, the provisions of this ordinance shall take precedence.
- (C) **Effective Date.** This Ordinance shall become effective upon publication and after one (1) month from the date of passage.
- (D) **Publication & Recording.** The City Clerk is instructed to publish this

ordinance one time in the Winona Times and to obtain proof of publication thereof and record this ordinance in the ordinance book.

The foregoing ORDINANCE was proposed on a motion by Alderman Austin, duly seconded by Alderman Ware, and no Alderperson having called for a reading it was brought to vote as follows:

Alderman Ward 1 Mickey Austin	Voting	"Aye",
Alderman Ward 2 Travis Johnson	Voting	"Aye",
Alderman Ward 3 Kelvin Winbush	Voting	"Aye",
Alderman Ward 4 David Ware	Voting	"Aye",
Alderwoman Ward 5 Sarah Minnieweather	Voting	"Aye".

The Ordinance having received a majority vote, the Mayor declared it passed and duly adopted.

SO ORDAINED, ENACTED, AND PASSED by the Mayor and Board of Aldermen of the City of Winona, Mississippi, on this the 20<sup>th</sup> day of August, 2020.

(SEAL)



  
Jerry Flowers, MAYOR

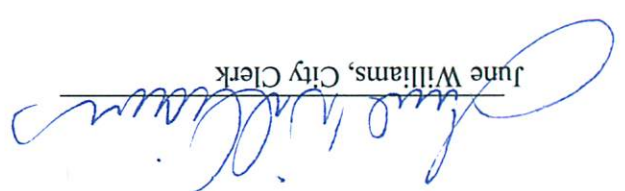
ATTEST:

  
June Williams, CITY CLERK

A



(SEAL)

  
June Williams, City Clerk

This the 22<sup>nd</sup> day of August, 2020.

As approved and adopted on the 20<sup>th</sup> day of August, 2020.

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constitutes a true and correct copy of the following titled ordinance:

I, June Williams, Clerk of the City of Winona, Mississippi, hereby certify that the attached documentation

CERTIFICATE