

**AN ORDINANCE ESTABLISHING REGULATIONS FOR EXCAVATIONS; DESIGNATING WHEN THIS ORDINANCE SHALL TAKE EFFECT AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.**

**SECTION 1. PERMIT REQUIRED, DEPOSIT & FEES**

No person shall make or cause to be made or help, aid or assist in making any excavation on any public street, highway or alley or other public place or any public easement or right-of-way without first having made application to the city for a permit for such excavation and receiving from the city a written permit therefor. Before such permit shall be granted, the applicant shall deposit with the city clerk such sum of \$100.00 as a stand deposit or performance bond to secure compliance with this ordinance. The fees for restoration to be deposited with the City Collector shall be such sum as in the judgment of the city may be sufficient to restore such highway, street, alley or other public place, public easement or right-of-way in as good a condition as it was before the excavation was made, and in accordance with the conditions provided in this article.

No exceptions to this ordinance shall permit except:

- (a). Public work done by authority of the State Highway Department or the Board of Aldermen of the City of St. Mary, Missouri; and,
- (b). Emergency work done for city utilities.

Excavation Permits shall not be transferable.

Application for excavation shall be in writing to the City Clerk. Before any permit is issued applicant must provide Proof of Liability Insurance which will show harmless the City of St. Mary from all claims for damages arising from the prosecution of the work.

**SECTION 2. RETURN OF DEPOSIT**

The deposit required by this article shall be returned to the depositor not later than six (6) months after the work has been completed and the place is restored to the original condition and in accordance with the provisions of this article, and, if not so restored, the city engineer or inspector designated by the city for such purposes may cause the place to be so restored and the costs thereof to be paid out of the funds so deposited, and any unexpended balance will be refunded to the depositor. If the deposit is not sufficient to pay the balance thereof, the depositor shall be required to pay the balance thereof.

**SECTION 3. ONE YEAR GUARANTEE PERIOD**

When the restoration work is completed by the person, firm, or corporation making or causing to be made, the excavation, the street surfacing so replaced shall, for a period of one (1) year following the date of restoration, be the responsibility of the excavator, who shall bear all costs of the maintenance on the repaired portion for such time. Failure to comply with the requirements of this section shall constitute a violation of this ordinance and the city may in

addition to persecution for violation use such portion of the bond deposit provided as necessary to maintain or repair unsatisfactory replacement of a street surface, and no further permits shall be issued to any person, firm, corporation whose bond deposit has been thus depleted or diminished.

#### **SECTION 4. INSURANCE**

Every applicant for an excavation permit shall register with the City a Certificate of Insurance for liability insurance in the sum of \$1,000,000.00 for any injuries or damages received or sustained by any person, persons, or property on account of the excavation work or on account of or in consequence of any neglect safeguarding the work. Said insurance must be kept in force as long as said project is in process. In the event that the insurance policy terminates and a substitute in lieu thereof is not deposited the permit for said excavation shall be immediately revoked.

#### **SECTION 5. WARNING DEVICES**

Every person who shall cause to be made any excavation in or adjoining any public street, highway, alley or public place or any public easement or right-of-way shall cause the excavation to be adequately protected so as to prevent persons, animals, or vehicles from falling into such excavation, and shall cause amber warning lights to be maintained about such excavation and keep the lights or torches lighted from sunset to sunrise.

#### **SECTION 6. BACKFILLING**

Excavations in any surfaced streets, whether a permanent or temporary surfacing exists on the street at the time the excavation is made, shall be cut in straight, neat lines on all sides. Such excavation shall be backfilled with a granular material to a depth of one foot above the utility or service lines for which excavation is made, and with the dirt or dirt and broken rock removed from the excavation to within six (6) inches of the surface around the excavation, for the full length of the excavation. The entire filled excavation shall be entirely inundated with water for a period of 30 minutes, or pneumatic-tamped in twelve (12) inch layers, as the city may direct. The remaining six (6) inches of the excavation shall consist of four (4) inches of one (1) inch minus crushed stone, and two (2) inches of asphalt concrete. It shall be the duty of the person obtaining the excavation permit to notify the city personnel designated by the city for such purpose that the excavation is ready for inspection at the time he remaining fill of six (6) inches is ready for completion, and the remaining six (6) inches shall not be filled until so inspected.

#### **SECTION 7. NEW CONSTRUCTION**

No excavation on new streets will be permitted except by permission from the Board of Aldermen where public health or safety is endangered. A penalty equal to three (3) times the restoration cost during the first two years, and twice the restoration cost during the three remaining years shall be assessed for excavations in such cases except when the City certifies such work to be necessary to protect the public health or safety.

## **SECTION 8. TEMPORARY CLOSING OF STREETS**

The city street department, the city water and sewer department, or any other authorized representative of the city may authorize to withdraw any public street, alley, highway or any part thereof when necessary for the proper control of traffic or upon which public work or improvement, repair or reconstruction is in progress or presently contemplated or where in their opinion such is required for the safety and protection of traffic and for such period of time as they may deem necessary for the benefit of such work and safety. It shall be unlawful for any person willfully to drive or cause to be driven any animal or vehicle on, along or across any public street, alley, highway or any part thereof so barred, or willfully to throw down, remove or otherwise disturb any barrier placed under the direction of any authorized representative of the city. Any person who receives a citation for any violation of this section shall be fined not less than \$50.00 and not more than \$500.00 for each offense.

## **SECTION 9. RESTORATION**

When the person, firm, or corporation is not sufficiently qualified to perform resurfacing work, as determined by the City Board, the work shall be contracted out to a company proficient in this type of work with the approval of the Board. All cost incurred shall be at the expense of the person, firm or corporation who has applied for the excavation permit.

## **SECTION 10. UNAUTHORIZED EXCAVATIONS PROHIBITED**

It shall be unlawful for any person to make or cause to be made or help, aid or assist in making any excavation in or on any public street, alley, highway or other public place or in or upon any public easement or right-of-way without first having obtained a permit thereof and having made a deposit as required by the provisions of this article.

## **SECTION 11. PENALTY**

Any person, firm, or corporation who violates any of the provisions of this ordinance, or who shall make or cause to be made any excavations in violation of the terms of this ordinance, may upon conviction, be fined up to Five Hundred Dollars (\$500.00), or be imprisoned for not more than ninety (90) days, or suffer both such fine and imprisonment.

## **SECTION 12. SEVERABILITY**

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

## **SECTION 13. EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this the 9TH day of SEPTEMBER, 1998.

  
MAYOR CARLTON WYATT

ATTEST:

  
CITY CLERK JOANN E. DONZE

| ALDERMEN          | AYE | NAY | ABSTAIN | ABSENT |
|-------------------|-----|-----|---------|--------|
| Robert Bequette   | X   |     |         |        |
| Roger Odem        | X   |     |         | X      |
| Douglas Roderique |     |     |         |        |
| Robert Schultz    | X   |     |         |        |

I, JoAnn E. Donze, Clerk of the City of St. Mary, Missouri, do hereby certify that the foregoing ordinance was duly passed and adopted by the Board of Aldermen at a regular meeting so convened on the 9TH day of September, 1998.

  
CITY CLERK JOANN E. DONZE