

## ORDINANCE 103

### ORDINANCE REQUIRING PERMIT FOR EXCAVATING OR REMOVAL OF EARTH IN ANY PUBLIC STREET OR PUBLIC GROUNDS IN THE VILLAGE OF BIRD ISLAND

The Village Council of the Village of Bird Island does Ordain:

#### SECTION I: Permit Required

No person shall dig, excavate, cut or remove or cause or permit to be dug, excavated, cut or removed, any earth, soil, sand gravel or other substance; or cut or remove, or cause to be cut or removed, any tree or shrub, in or upon any street, alley or public grounds, or upon any part thereof, and no person shall fill up, drain, open or otherwise alter, obstruct or change or cause or permit to be altered, obstructed or changed any water course, ditch or sewer in or upon any street, alley or public grounds within the Village of Bird Island without first obtaining permission therefore from the Village Clerk as herein provided.

#### SECTION II. Permit and Fee

No person, firm or corporation shall cut or tear up any concrete, bituminous or other type pavement, or make any excavation in any pavement in any street, alley, or public grounds for any purpose whatsoever, without first procuring a permit therefore from the Village Clerk. The fee for said permit for cutting or tearing up any pavement or street shall be computed per square yard as liquidated damages, the same to be used for the replacement of the pavement or street surface by the Village. For the first square yard or fraction thereof, to be torn up, the fee shall be \$10.00, and for each additional square yard to be torn up, the fee shall be \$5.00; provided, however, that in the case of cutting or tearing up any Bituminous pavement, for the first square yard or fraction thereof to be cut or torn up, the fee shall be Five (\$5.00) Dollars, and for each additional square yard to be torn up or cut, the fee shall be Two Dollars and Fifty Cents (\$2.50).

#### SECTION III. Replacement

For the purpose of this ordinance, boulevards, abutting public streets, together with public sidewalks, shall be deemed to be public grounds. Any person, firm, association or corporation desiring only to cut, excavate, tear up or remove any earth or soil in or upon any boulevard or under any public sidewalk, shall be subject to the provisions of this ordinance except that the fee for the permit, specified herein, shall be only \$1.00; if after so digging or excavating in or upon any boulevard or under any sidewalk, the person, firm, corporation, or agency doing such excavating, digging or removal of soil, shall place said boulevard and sidewalk in substantially the same condition and appearance as it was prior to said digging, excavating or removal of soil.

#### SECTION IV. Approval and Waiver

Every application for such permit shall be in writing, signed by the applicant, and it shall specify the location in the street or pavement, which the applicant desires to cut or excavate. Application forms shall be furnished by the Village Clerk and there shall be attached to said application, and made a part thereof, an approval and waiver form to be taken by the applicant, at his own time and expense, to the following named persons, firms, or corporations to be approved by an authorized representative of each hereinafter named agency which shall designate, in writing, on said approval form the following:

1. The location by proper and easily determined measurements, of any facilities of each agency which might be cut, destroyed, injured, or otherwise interfered with, by the proposed excavation or cutting, and should such proposed cutting or excavation endanger any facilities, then specific and pertinent directions shall be given upon said approval form, in writing, to avoid such injury, destruction, or interference with such facilities.

2. If the proposed cutting or excavation will not interfere with any facilities of the respective agencies hereinafter named, a statement to such effect shall be made in writing upon said approval form.

## SECTION V. Agencies Applicable

The ordinance, and its orders and specifications herein, shall apply to the following:

1. Water and Sewer Department of the Village of Bird Island
2. The Street Department of the Village of Bird Island
  - A. Although a permit shall be required equally from the above two named departments of the Village of Bird Island, there shall be no fee charged for the issuance of the permit to the above department.
3. Northwest Bell Telephone Company
4. Any other firm, association, individual, corporation, operating a public utility, now or hereafter within the Village of Bird Island, using any area beneath the street, alley or public grounds of the Village of Bird Island to realize the purpose of said utility.

## SECTION VI: Approval Required

The agencies, herein named, shall execute the approved form, which shall designate thereon things hereinabove set forth, and it shall be the following:

1. Northwest Bell Telephone Company.
2. Water & Sewer Department of the Village of Bird Island.
3. The Street Department of the Village of Bird Island.
4. Northern States Power Company.
5. Island Gas, Inc.

## SECTION VII: Issuing Permit

After all of the agencies named in Section VI above have executed the approved form, and the same has been returned to the Village Clerk, together with the application and necessary fee, the Village Clerk shall issue a permit to cut, tear up the said pavement or streets as requested, to said applicant.

## SECTION VIII: Applicability to Village

Any authorized officer, servant or employee of the Village of Bird Island, and any firm, person, or corporation which has a contract with the Village necessitating the cutting of any pavement or the excavation of or in any public street, alley or public grounds in the Village shall be subject to the same requirements as any other person, firm, or corporation, provided, however, that no fee shall be charged for said permit.

## SECTION IX. Backfilling

Any person, firm or corporation who has obtained a permit, as above provided, after cutting said pavement or street, alley or public ground, and making any excavation, hole or depression therein, shall notify the superintendent of the street department of the Village of Bird Island, in writing, before said hole, excavation, or depression is back-filled and filled up. The superintendent of streets shall, within 24 hours after notice to him in writing, designate the mode, manner and method of filling said excavation, and he shall prescribe the substance, depth, and other specifications, to be used in filling said depression, hole or excavation. Thereafter, it shall be the duty of said permittee, his agent or servants, to follow the specifications, as designated by said superintendent of streets, and at his own expense, to back-fill said excavation as prescribed. Should said permittee fail to follow the superintendent of streets, said permitted shall be liable to the Village of Bird Island for all damages occasioned by his failure to comply. Should said excavation, hole, or depression not be back-filled as prescribed, the Village of Bird Island may do anything necessary, at the expense of said permittee, to rectify said conditions of back-filling, so that the same will meet, the specifications originally set forth by the Superintendent of Streets. Said cost of re-excavation and proper back-filling may be assessed by the Village Council as a proper charge against the property affected.

A. The terms, conditions and stipulations of this section shall not apply to any person, firm, corporation or agency holding a permit only to dig, excavate, tear up, or remove any soil of any boulevard in the Village of Bird Island.

B. Any person, firm, corporation or agency subject to the provisions of this section, may apply to the Superintendent of Streets after having back-filled any hole, depression or opening in the street, alley, pavement or public grounds of the Village of Bird Island, for a Certificate of Compliance, and the Village

Superintendent of Streets shall examine and inspect the site of said excavation, and if the order and specifications have been complied with in said back-filling, he shall execute, in writing and deliver to the applicant or permittee a Certificate of Compliance. If after such inspection the Village Engineer finds that said order, the back-filling has not been complied with, he shall notify the applicant and direct him to comply with the original order, method or manner of said back-fillings, said hole, excavation or depression.

SECTION X: Effective Date

This ordinance becomes effective from and after its passage and publication.

Passed by the Council this 21<sup>st</sup> day of February, 1973

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W.M. Bunker, Mayor

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Frank T. Saunders, Clerk