

ORDINANCE 82

AN ORDINANCE REGULATING, LIMITING AND RESTRICTING THE EXCAVATION, DIGGING, TRENCHING, AND REMOVAL OF ALL METERIAL, EARTH AND DIRT IN, ALONG OR ACROSS IMPROVED STREETS IN THE VILLAGE OF BIRD ISLAND, PROVIDING FOR THE PAYMENT OF THE COST OF REPLACING BITUMINOUS SURFACE, AND PROVIDING A PENALTY FOR VIOLATION THEREOF.

Be it resolved by the Village Council of Bird Island, Minnesota:

SECTION 1. DEFINITIONS. As used herein the term person and property owner shall mean and include individuals, as sociations, partnership, private and quasi-public corporations.

SECTION 2. EXCAVATING AND DIGGING: No person shall excavate, or dig, or cause to excavate or be dug, any trench or hole, in, on or across any improved street within the Village of Bird Island, Minnesota, for the purpose of laying and installing, or removal, of, any type of sewer, drain, underground pipes, (water services connections excepted), posts, poles, cables, or wires without first notifying the Clerk of the Village Council of such proposed excavating or digging and the location of the same at least five (5) days before undertaking the same.

SECTION 3. REQUIREMENTS AND SUPERVISION:

A. All such excavatings or digging, and removal of earth and excavated materials by any person, as herein provided, shall be made only under the control and supervision of the Village Council, or one of its appointed or constituted agents or employees.

B. All earth, dirt, and materials taken from any such digging or excavation shall not be placed in or returned to the trench or hole made thereby but shall be immediately picked up and hauled away.

C. After said excavated earth, dirt and materials have been hauled away the excavation, trench or hole shall be filled with gravel, packed and well tamped to the level of the existing street surface and grade, and all materials from such excavation, and loose gravel in the area, and resulting by reason thereof, shall be swept up to the satisfaction of the Village Council, and hauled away.

SECTION 4. REPLACEMENT OF BITUMINOUS SURFACE.

A. If, in digging or excavating for any of the purpose herein stated, any bituminous surface is damaged, disturbed or removed, the Village will replace said bituminous surface, after all the requirements of Section 3 have been complied with, at the expense of the person or property owner causing or making said excavation, trench or hole.

B. The Village will replace said bituminous surface at such time as it deems it advisable.

C. After said Bituminous Surface has been replaced by the Village, as herein provided, the cost of said replacement, both in labor and material, shall be computed. The clerk shall then notify in writing the person or property owner causing or making such excavation of the cost of replacement. The notice shall state the nature of the work required in making said replacement, the cost thereof, and shall require that payment therefore be made to the Village Clerk within ten (10) days after receipt of the notice. The expense thus incurred in making the replacement of the bituminous surface shall be in a lien on the real estate owned by the person or property owner benefited by and utilizing the improvement necessitating said excavation and bituminous surface replacement. If cost of said replacement is not paid the ten (10) day period provided for in said written notice, the Village Council, through its Clerk, shall certify to the County Auditor a statement and the auditor shall enter

such amount in the tax records as a tax upon said real estate, which shall be collected in the same manner as other real estate taxes.

SECTION 5. EXCAVATING AND DIGGING FOR WATER SERVICE CONNECTIONS:

The Village will, upon request of the property owner, excavate and dig the necessary trench for laying and installation of water service connections, provided however, that when said excavation has been made the person or property owner requesting the same shall immediately remove and haul away all earth, dirt, and excavated materials, fill the trench, hole and excavation with gravel, pack and tamp the gravel to the same grade or level of the existing street; sweep and clean all excavated materials and loose gravel from the excavated area, and pay the costs and expenses incurred by the Village in replacing the disturbed, damaged and removed Bituminous Surface all as provided and required under Section 3 and 4 of this ordinance.

SECTION 6. PENALTIES. Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined up to \$100.00 or by imprisonment in the County Jail for not more than ninety (90) days.

SECTION 7. REPEAL OF INCONSISTENT ORDINANCE: Nothing contained herein shall be deemed to repeal existing Ordinance covering the same subject matter.

Passed this 15th day of July 1953.

George Nemmers, Mayor

Jay S. Burrell, Clerk