Ordinance No. 1736

AN ORDINANCE REGULATING ALL EXCAVATION WORK OF EXISTING STREETS AND IMPROVEMENTS WITHIN PUBLIC RIGHTS-OF-WAY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA, as follows:

SECTION 1. Excavations - Permit - Required: Exceptions. It shall be unlawful, except in an emergency, as set forth in Section 2 of this ordinance, for any person to make any opening, cuts or excavations in or under the surface of any street, alley, sidewalk or public way of the City of Prichard, including improved drainage easements, without having first obtained a written permit from the City, the plan for which has been approved by the Inspection Department, and without first having requested and having been furnished the proper City Inspector to supervise and inspect the work on behalf of the City.

It shall also be unlawful for any person to whom such permit has been issued to do or cause to be done the work authorized therein without complying with the specifications on file in the Inspection Department for the type of cut or excavation made, and also without complying with inspection requirements contained in such permit.

SECTION 2. Emergency Procedures.

In the event that any sewer, gas Line or main, electrical conduit, telephone communication cable or other utility installation dangerous to life or property if unrepaired, in or

under any street, alley, sidewalk, or public way shall burst, break, dangerously leak, or otherwise be in such emergency condition as seriously to danger persons or property, if left unrepaired, the owner of such sewer, gas line or main, eletrical conduit, or other installation shall immediately repair such trouble and shall immediately take all necessary steps to make such location safe and secure. Such owner shall not, however, begin making any permanent repairs to such street, alley, or sidewalk, until he shall have secured a permit as provided in this ordinance. Such permit shall be secured immediately after such emergency break shall have developed. The City Inspection Department, or Public Works Department on a non-workday, shall be notified on the day of the emergency cut.

SECTION 3. Permit - Application; Information required - Generally.

All applications to the Inspection Department for a permit to make openings, cuts or excavations in City streets, sidewalks, curbs, gutters and rights-of-way, shall be in writing and shall be accompanied by at least one copy of a location plan showing the size of the work, the location with reference to lot and street lines, and existing buildings, driveways, curbs, sidewalks, trees, poles or other objects that might affect the work. The application shall state the number of workdays which are expected to be necessary for completion on the initial patch or repaving. The permit issued shall be made subject to

completion in the time stated by the Inspection Department in the permit.

SECTION 4. Permit - Bond.

(a) The Inspection Department shall require each applicant referred to in this ordinance, before granting the permit, to deposit with said office an amount in cash or a surety bond equal to the amount of the cost of the work (as determined by the City Inspector from schedules on file) proposed in the application as a guarantee that the work will be done in accordance with the permit and City details and specifications. He shall give the applicant his receipt for such deposit.

(b) The surety bonds shall be executed by the applicant as principal, with a corporation duly authorized to transact surety business in the State of Alabama. The bond shall be in favor of the City, shall be continuous in form, and shall be conditioned that the total aggregate liability of the surety for all claims shall be limited to the face amount of the bond irrespective of the number of years the bond is in force. The bond shall be released upon satisfactory performance and acceptance of the work, or may be cancelled after the applicant has provided other security satisfactory to the City which will cover obligations that remain.

(c) No guarantee deposit shall be less that ten dollars on work done under this ordinance.

(d) In instances where an applicant is issued numerous small permits throughout the year, he may post a continuing bond to cover work of more than one permit. The continuing bond shall be of a value sufficient to cover all work under construction by the permittee at any time and shall be satisfactory to the City Inspector.

(e) The bond is subject to cancellation as noted above, or may be terminated after all obligations are fulfilled which were "permitted" prior to the City Inspector receiving cancellation notice from surety.

(f) Upon the approval of the City of Prichard Director of Finance, utilities of sufficient sound financial position shall be permitted to execute their own bond, conditioned as above, but without a separate corporate surety.

SECTION 5. Permit - Fee.

The applicant shall also deposit with the City Inspector, before any permit shall be issued, a permit fee to cover the City's cost of inspection and clerical services. The schedule of fees - set forth herein - is established to offset the City's expenses and the fee shall be computed on the basis of the units of work and the schedule of fees. No part of this permit fee is refundable.

FEE SCALE

Listed as follows are the permit fees to be charged in connection with pavement cuts within streets, sidewalks or storm drains:

0 sq. yds. to	2 sq. yds.	$ 5.00
2 sq. yds. to	25 sq. yds.	$15.00
25 sq. yds. to	100 sq. yds.	$20.00
100 sq. yds. to	500 sq. yds.	$25.00
500 sq. yds. to	1,000 sq. yds.	$30.00
For each additional 1,000 sq.. yds. or portion thereof, over the initial 1,000 sq. yds.		$20.00

Permit Fees for cuts or excavations in portions of street rights-of-way controlled by the State of Alabama and in the City rights-of-way other than in the pavement of streets, sidewalks or storm drains, shall be one-half the fees above set out, Provided: that the fee for excavations for utility poles so located shall be $1.00 per hole, which fee includes any necessary guy or anchor used with the pole.

SECTION 6. Permit - Qualifications of Applicant.

Applicants for permits may be either an owner or a contractor. However, the work may be performed only by: (1) licensed contractors, (2) utility companies, (3) governmental agencies, or (4) resident owner of residential property where the property owner proposes to do work between his property line and the back curb line.

SECTION 7. Permit - Conditions and Specifications.

The City Inspector will have available on file, and make a part of each permit issued, the conditions and specifications of

the particular patch and/or refill to be made under the permit issued to the applicant. The City Inspector may require the current Alabama State Highway Department standard specifications, or, the specifications used to originally pave the subject road within the past five years; or, specifications prepared by a registered professional engineer in the State of Alabama, as approved by City Inspector; or, specifications applicable only to unpaved, graded alleys and ways; and, in addition, shall have the appropriate specifications for gutter, and sidewalk cuts, and damaged manhole replacements, which will be made part of each permit issued for the same.

SECTION 8. Required Construction Time.

The work will be accomplished in accord with the chart set out below, to assure the proficiency and permanency of the work performed. The permit issued shall be made subject to completion of the initial patch or repaving in the time stated by the City Inspector in the permit.

SECTION 9. Time Limits.

Any permit issued pursuant to this ordinance shall become null and void in the event work authorized thereunder is not commenced within 72 hours after date of commencement in the Permit and/or is not carried out in the most expedient manner possible, while complying with the City Inspector, specifications for the work to be done, and the time allowed in the permit.

SECTION 10. Excavations Under Electrical, Gas, Building and Plumbing Codes subject to this ordinance.

All provisions of the Electrical Code, Gas Code, Building Code and Plumbing Code relating to excavation in streets or alleys and relating to connections with or use of sewers and utilities requiring a permit for pavement, sidewalk or curb cuts, whether such code is presently in existence or hereafter adopted, shall be subject to all applicable provisions of this ordinance.

SECTION 11. Obstruction of More than Half of Street or Alley.

It shall be unlawful for any person engaged in removing any pavement or in excavating in any street or alley, to obstruct more than one-half of the width of the roadway of such street at a time, measured from curb to curb, or to obstruct more than one-half of the width of such street or alley, without specific prior authorization of the City Inspector to do so.

SECTION 12. Protections Near Excavations.

For every excavation made on public property or public right-of-way, proper safeguards shall be provided against injury to the public. Barricades shall be provided five feet from such excavations, shall completely encircle all open excavations or trenches, and shall also be placed wherever necessary to assure the safety of the public.

From sunup to sundown there shall be placed at a distance of not less than 100 feet, sufficient numbers of red flags

and/or color cones to warn the public of dangerous excavations. From sunset to sunrise, there shall be placed at a distance of not less than 100 feet, sufficient flasher lights or flambeaux to indicate the length of the excavation in the public thoroughfare and to warn the public of dangerous excavations. In addition to the above, there shall be placed on or by the barricades, sufficient flasher lights or flambeaux to indicate the point of excavation and size.

When approved by the City Inspector, steel plates of sufficient strength may be used temporarily to cover excavations to prevent blocking of streets.

SECTION 13. Removing Lights or Danger Signals.

It shall be unlawful for any person to destroy, remove, injure or interfere with any caution flasher light or danger signal that may be in use in the City rights-of-way.

SECTION 14. Signs on Obstructions and at Excavations.

It shall be the duty of any person making any opening in any public street in the City, laying or repairing any pavement or sewers, in or under such street or in any manner obstructing any portion of such street to erect signs visible from each direction of access to such work or obstruction, which signs shall state the name of the person doing such work or obstructing such portion of such street, and the name of the person for whom the work is being done. Such signs shall be of such size and placement as to be easily read at a distance of 30 feet.

SECTION 15. Notification of Intent to Cut Street.

The City Inspection Department shall be notified at least 24 hours prior to the making of any pavement cut, except emergency cuts; and the name, address and telephone number of the person or agent representing the person making the pavement cut, who will be available on a 24-hour call, in case of emergencies, shall be given to the City Inspection Department.

SECTION 16. Traffic Requirements.

(a) In addition to the protection devices hereinabove required, all signing and/or barricading shall conform to the Alabama Manual on Uniform Traffic Control Devices.

(b) Any detour plan, and/or use of uniformed police, and/or restriction of hours of work during peak traffic shall be included in the permit issued.

SECTION 17. Indemnity Provision and Insurance Required.

(a) In addition to any liability imposed upon the permittee by law, the permittee shall indemnify and agree to save harmless the City and its elected or appointed officers, agents, boards, commissions, employees and representatives against and from any cost, expense, claim, demand or liability arising out of or in connection with any act or omission of the permittee, his agents and employees, and of any subcontractor, his agents and employees, in the course of the performance of the work under permit which results directly or indirectly in the injury to or death of any person or persons or the damage of any property of any person or person.

(b) The permittee shall take out and maintain during the life of the permit Workmens Compensation insurance for all of his employees employed at the site of the project, and, in case any work is sub-let, the permittee shall require the subcontractor similarly to provide Workmens Compensation insurance for all of the latter's employees unless such employees are covered by the protection afforded by the permittee. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Workmens Compensation statute, the permittee shall provide, and shall cause each subcontractor to provide protection equal to that required by law for the protection of his employees not otherwise protected.

(c) Except as hereinafter provided, any applicant for a permit shall, prior to the issuance of such permit, procure and deliver to the City Inspector a certificate of insurance covering public liability and property damage issued by an insurance company authorized by the Insurance Department of Alabama to transact business in the State of Alabama, as shall protect the applicant or contractor and any sub-contractor performing any work covered by the permit from claims for damages for personal injury, including death, as well as from claims for property damages which may arise from operations under this permit, or by anyone directly or indirectly employed by any of the foregoing. Such certificates shall contain coverage for explosions, collapse and underground operations.

(d) The certificate may be placed on file for each individual permit or a blanket certificate may be filed for an extended period of time.

(e) The policy limits of such liability insurance shall contain not less than the following limits of coverage:

Insurance: The permittee shall take out and maintain during the term of this permit the following:

Item 1 - Workmens Compensation - Employers Liability Insurance

a. Statutory - amount and coverage as required by law of the State of Alabama.

Item 2 - Comprehensive - General Liability Insurance

a. Public Liability including premises, products, and complete operations, with the City of Prichard a named insured.

(1) Bodily injury liability - $250,000 each person
$500,000 each occur.

(2) Property damage liability - $100,000 each occurrence.

Item 3 - Comprehensive - Automobile Liability Insurance including owned, non-owned, and hired vehicles

a. Bodily injury liability - $250,000 each person
$500,000 each occurrence

b. Property damage liability - $100,000 each occurrence

(f) Upon the approval of the City of Prichard Director of Finance, utilities of sufficient sound financial position shall be permitted to file a Certificate of Self Insurance, and Workmens Compensation coverage, conditioned as above set out.

SECTION 18. Work on Federal or State Highways.

In the event any cut, opening, or excavation is made in or under the surface of any roadway which constitutes part of a

Federal or State highway it shall be the duty of the person doing such work and of each agent acting for such person to obtain a permit from the State Highway Department prior to the issuance of a permit by the City Inspection Department.

SECTION 19. Exceptions to Permits Required.

(a) Excepted from the requirements of obtaining a permit is the use of unimproved, neutral ground of the rights-of-way of the City for organic asthetic improvements by the adjacent residential owner; Provided, however, that such improvements are subject to applicable ordinances and to removal by the City at the discretion of the City of Prichard; and

(c) Subject only to the requirement of notifying the Inspection Department at least 24 hours prior to excavation and excepted from all other permit requirements of this ordinance shall be:

(1) cuts made in the outside edge of the unimproved portion of the City rights-of-way of less than 24 inches in length therein, and solely for the purpose of single family residential individual service connections by the following utilities: South Central Bell Telephone; Alabama Power Company, Mobile Gas Service, the Water Works and Sewer Board of the City of Prichard, Mobile Water Service System and Kushla Water Works;

(2) the replacement, in an immediately adjacent hole, of utility poles.

(3) openings, excavations and cuts by contractors in the City of Prichard rights-of-way done in accordance to plans

and specifications of projects let for contract by the City of Prichard, State of Alabama or United States Government.

SECTION 20. Restoration of Streets Upon Completion of Work; Notification of Completion; Certificate; Penalty.

It shall be the responsibility of each person, firm or corporation to restore the street, curb, alley or sidewalk to its approximate condition or better as before any opening, cut or excavation was made thereupon. Each person, firm or corporation, whether exempt from obtaining a permit hereunder or not, shall notify the Inspection Department within 48 hours after the completion and restoration of any opening, cut or excavation in or under the surface of any street, alley, sidewalk or public way of the City of Prichard. The Inspection Department shall inspect the restoration and, upon satisfactory proof, issue to the person, firm or corporation a certificate of compliance with this Section. Any person, firm or corporation failing to comply with this Section shall be punished as set forth in Section 22 hereof.

SECTION 21.

All existing ordinances in conflict with this ordinance are hereby repealed.

SECTION 22.

Any person, firm or corporation found in violation of any of the provisions of this ordinance shall be fined in an amount

not exceeding the sum of $500.00 and may also be sentenced to hard labor for the City or to imprisonment in the City Jail for a period not exceeding six months, one or both, in the discretion of the municipal court.

SECTION 23.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance, is for any reason held invalid or unconstitutional by court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof.

SECTION 24.

This ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ADOPTED this 27th day of August, 1991.

APPROVED:

MARGIE MOBERG WILSON, MAYOR

ATTESTED:

CYNTHIA K. NORWOOD, CLERK