

First Reading: 11/25/2024

Second Reading: 01/13/2025

Bill No: 24-63

Ordinance No: 241125B

AN ORDINANCE REVISING AND REPLACING SECTION 400.1500 OF THE CITY CODE.

WHEREAS, the city infrastructure is constantly being upgraded and,

WHEREAS, the streets and easements need proper procedures and inspections

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF THE CITY OF WILLARD, AS FOLLOWS:

SECTION 1. REPEAL SECTION 400.1500

Section 400.1500 is hereby repealed in its entirety

SECTION 2. REPLACEMENT OF SECTION 400.1500

Section 400.1500 is hereby replaced with the following:

Section 400.1500. Excavation. [Ord. No. 020227 §1(17.1), 2-27-2002; Ord. No. 050110C §1, 1-10-2005; Ord. No. 050411A §1, 4-11-2005; Ord. No. 101228D §7, 12-28-2010]

- A. *Purpose.* This Section establishes standards and requirements for any excavation, grading, dislocation or relocation of any material within the City limits of Willard in order to protect the health, safety and welfare of the citizens and their property.
- B. *Applicability.* Unless otherwise exempted by other provisions of this Chapter, any person, firm, corporation or other entity engaged in any excavation, grading, dislocation or relocation of any material within the City limits of Willard shall comply with the applicable provisions of this Section.
- C. *Definitions.* For the purposes of this Section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the text, words in the singular number include the plural number. The word "*shall*" is always mandatory and not merely directory. The word "*may*" is directory and discretionary and not mandatory.

APPLICANT — Any person making an application for a permit to excavate.

BLASTING — The act of discharging any dynamite, explosive, cap or other device.

BORING — Drilling or pushing casing under a street without affecting its top surface.

CITY — The City of Willard, Missouri, or the City's authorized representative.

DYNAMITE OR EXPLOSIVE — Any product or item which results in the removal, relocation or dislocation of any earth, sand, gravel, rock or other similar material or buildings or other structures and shall include the conditions resulting therefrom.

EXCAVATION — Any operation in which earth, rock or other material in or on the ground is moved, removed or otherwise displaced by means of any tools, equipment or explosives

and includes, without limitation, backfilling, grading, trenching, digging, ditching, drilling, well-drilling, augering, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, and demolition of structures, except that, the use of mechanized tools and equipment to break and remove pavement and masonry down only to the depth of such pavement or masonry, the use of high-velocity air to disintegrate and suction to remove earth, rock and other materials, and the tilling of soil for agricultural or seeding purposes shall not be deemed excavation. Backfilling or moving earth on the ground in connection with other excavation operations at the same site shall not be deemed separate instances of excavation.

GRADING — Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

PERSON — Any person, partnership, corporation or other entity.

SITE — A lot, tract, project or subdivision of a single owner or several owners.

D. *Excavation For Construction, Development Or Alteration Of Structures.*

1. *Application.* If any excavation is proposed to be done in connection with any construction, development or alteration of existing structures, the proposal shall be submitted in writing to the City Clerk at the time of the request for approval of the subdivision plat or request for a zoning certificate, whichever first occurs or applies. The proposal for excavation shall be reviewed by the City and either accepted or rejected with recommendations by the City for compliance with generally accepted practices in the industry. The proposal for excavation shall be accompanied by the following:
 - a. Written proof to the City that the applicant is insured and bonded against the possibility or eventuality of destruction, harm, physical injury or other catastrophe caused or threatened to be caused by the excavation;
 - b. Written certification from a licensed engineer that the proposed excavation is being done according to generally accepted practices; and
 - c. If the proposed excavation involves blasting, a pre-blast inspection and report which shall be provided at the applicant's expense.
2. *Blasting limitations.* Notwithstanding anything to the contrary herein, no excavation shall be done by uncovered or uncontained trench blasting; or by blasting or discharge of any explosive within three hundred (300) feet of any structure, building, residentially zoned property or public improvement including underground structures, public or private, unless person or persons causing the excavation shall have complied with all provisions of this Section. Seismographs shall be set at appropriate locations to measure the blast. No blast measured by the seismograph shall exceed a reading of particle velocity of more than one (1) inch per second. However, nothing contained herein shall excuse any person, firm, corporation or other entity from responsibility or liability should they cause damage as a result of their excavation to any person, business or corporation whether public or private, even if the seismograph reading is within the limits as described herein.
3. The City shall, upon completion of the blasting or other excavation, make an inspection of the site in order to certify compliance with the provisions of this Section.

E. *Excavation Within Rights-of-Way*

1. No person shall cut through, dig into or make an opening in any hot asphaltic concrete street surface or any Portland cement street surface within the City of Willard for the purpose of constructing, installing, laying or repairing sewer lines, water lines, electric lines, gas lines, telephone lines or other such utilities ~~unless the existing location of a City water main or a City sewer line is located under said asphaltic or concrete surface and the purposes of such cutting into or opening in the hard surface is to connect to an existing sewer line or existing water main located under the hard surface.~~

~~In the event~~ All cutting shall be is required approved by the Director of Public Works for connection to an existing sewer lines or water mains, ~~Cuttings shall follow~~ all applicable provisions of this Section and the applicable provisions of the City of Willard Design Standards for Public Improvements relating to regulation of sewer and water extensions and connections shall apply to such cutting or opening.

In all other instances where it is necessary to cross under any street with any sewer line, water main, water line, gas line, electric lines, telephone line or other such utility, it shall be required to bore under the hard surface street and cutting or digging into the street surface shall not be permitted.

- F. No encroachment permit shall be issued by the Director of Public Works for storage of articles in the public right-of-way during construction until the applicant first obtains and furnishes to the city a copy or certificate of insurance in a sum of not less than \$500,000.00 per occurrence for property damage, personal injury or wrongful death. Such insurance shall name and insure the city from any and all liability or damages to persons or property sustained by any person, firm or corporation resulting from the use of street, alley, sidewalk or other public way for which a permit is granted.
- G. A utility or contractor who does more than occasional work in the public way in the course of one year may elect to have a copy of its liability insurance on file with the city in lieu of the above. In such cases, confirmation of insurance shall be required each year.

1. ~~Permit required. It shall be unlawful for any person to make an excavation within the right of way limits of any street, alley or sidewalk within the City without first obtaining a permit from the City Clerk;~~ No person, partnership or corporation shall dig into or across, bore or tunnel under any street or alley in the City unless such person, partnership or corporation shall have a written permit signed by the City of Willard to authorizing such work. The permit cost shall be \$100.00 per **Section 500.110**. The permit shall be good for a maximum of 1000 feet of infrastructure installation. Upon completion of the permit scope the installation shall be inspected and approved for final approval. For larger projects additional permits may be reviewed and processed but only 1 active permit shall be open per project site.
 - a. Whenever an encroachment permit is required, the permit or a copy thereof shall be located at the work site while the work is being performed.
 - b. If applicable, a state or county permit for work in the state or county right-of-way within the corporate limits of the city;
 - c. Any other information deemed necessary by the Director of Public Works.
 - d. ~~provided, that i-~~ In case of an emergency which requires immediate attention to remedy defects in order to prevent loss or damage to persons or property, it shall be sufficient that the person making excavation or opening in the streets, alleys or sidewalks obtain a permit as soon as possible and may proceed without such permit where such permit cannot be obtained immediately and before starting such excavation or opening. For emergency construction sites for which remedial construction will take more than fourteen (14) calendar days, application for the permit must be made within three (3) calendar days from the start of construction. The person securing a permit to make an excavation in any street, alley or sidewalk shall be deemed to be the person making such excavations. *Performance bond required.*
 - e. Prior to the issuance of a permit for excavation within the right-of-way limits of any street, alley or sidewalk, the applicant shall deposit with the City Clerk ~~not less than one thousand dollars (\$1,000.00) cash~~ A determined amount as a surety for performance bond based on the project scope review. In all cases the amount deposited shall be not less than five thousand dollars (\$5000.00)
 - f. A utility or contractor who does more than occasional work in the public ways may elect to obtain a blanket surety bond to cover all work for a period of one year in an amount to be determined by the Director of Public Works, but not to exceed \$500,000.00. The amount of the surety bond will be based upon the anticipated number of projects to be completed within one year. Unless renewed, the surety bond will be refunded, as above, after the last inspection 12 months after the project completion.
 - g. Should the applicant for the permit fail to satisfactorily complete the work required under this Section, the City may give ten (10) days' written notice to applicant and may complete said work at the expense of the applicant. City shall charge and collect against the cash bond such sums as are due from the applicant. If a balance

remains after City has been reimbursed the costs of completion, then such deposit or portion thereof shall be returned to the applicant.

- h. Should the cash bond be insufficient to complete said work to the satisfaction of the City, the applicant shall owe the difference in the costs and expenses incurred. Applicant shall promptly pay to the City the amount due upon notice of said additional charges.
 - i. Such deposit shall be returned 12 months ~~ninety (90) days~~ after the completion and final approval of the project. ~~excavation has been backfilled and after the City Director of Public Works has reported the excavation to have been properly repaired and payment made therefore and to his/her knowledge no damage to any person has occurred by reason of such excavation prior to acceptance by the City.~~
2. *Work performance.* All work will be performed expediently and in a workmanship-like manner and every person making such excavation shall agree to perform all work in accordance with the permit and to indemnify and hold harmless the City, its officers and employees from all liability, judgments, costs, expenses and claims growing out of damages or alleged damages of any nature to any person or property arising out of performance or non-performance of said work or the existence of facilities and/or appurtenances thereof.
 3. *Excavation Provisions: Workers shall exercise caution when working around utilities. This may include hand digging when within 24" of utility markings, having a designated spotter in the trench, boring, and slow scraping of material within the easement. If determined that damage was incurred by lack of caution during the installation, the applicant shall assume all costs for the repair.*
 4. *Plans required.* Where an application is made for an excavation permit for installing an underground gas main, an underground telephone cable, an underground water main or a sanitary or storm sewer, the applicant shall submit a blueprint or plat showing the location where the proposed main or cable is to be placed, if such blueprint is requested by the City, and the same shall be located and installed in accordance with the provisions of the City of Willard Design Standards for Public Improvements or other applicable ordinances and policies of the City.
 5. *Underground installations.* The underground installation of water mains, sanitary sewer or storm sewer shall be in conformance with the requirements of the City of Willard Design Standards for Public Improvements. All underground water line installations will have a minimum cover of thirty (30) inches. All other underground installations will have a minimum cover of twenty-four (24) inches, except parallel direct burial underground telephone cable which may have a minimum of twenty-one (21) inches of cover. Greater minimums may be required by the City.
 6. *Traveled areas shall be backfilled and either temporarily patched or permanently restored within one working day after excavation, but no later than 5:00 p.m. on Friday in order to eliminate weekend traffic disruption and inconvenience. Permanent pavement restoration shall be accomplished within two working days of any temporary pavement patch, weather permitting. All backfills, temporary patches, and permanent pavement restoration shall be in accordance with city of Willard City Standard Construction Specifications.*

7. At the close of each work day, all waste material shall be removed and the work area shall be restored to a condition satisfactory to the Director of Public Works
8. During the period between permit issuance and final inspection approval, the permit holder is responsible for the cleanliness and general condition of all affected streets, alleys, sidewalks, bike paths, parking lots and other public ways. Each permit holder shall be responsible for not less than the complete frontage of the property covered by the permit and from the centerline of the street or other public way to the property line.
9. Upon completion of all work, the permit holder shall notify the Public Works department for final inspection and approval.
10. The permit holder shall repair at its own expense any settlement, defect or damage that may arise as a result of the excavation from the time of the completion of the work until the 12 month inspection as required
11. *Barricades.* All excavations shall be barricaded in such a manner as to protect both pedestrians and vehicular traffic. Such excavations and barricades shall be lighted at night with danger signals in such a manner that all traffic may be warned of the existence and location of such excavation and barricades. All excavation shall be barricaded and lighted at night in the manner described in this Subsection. When the entire right-of-way is excavated, detour signs shall be posted and located as required by the City.
12. *Repair procedures and requirements.*
 - a. At the completion of any work requiring excavation of a street, alley or sidewalk, such excavation shall be immediately backfilled by filling the excavation with a minimum of six (6) inch lifts of crushed limestone. Each lift shall be well tamped as provided by the City. Compaction will be to the satisfaction of the City and shall comply with the standards of Chapter 405, Design Standards for Public Improvements.
 - b. After the excavation has been properly backfilled and open to traffic a sufficient length of time to ensure proper settling, which time shall be at least ten (10) days, the person making the excavation shall notify the City Clerk that the same is ready for final repair. The City shall inspect the same and if it finds that such excavation has been properly backfilled and has settled sufficiently to permit final repair and after the person making the excavation has provided all appropriate test results, including compaction tests, the City shall authorize the person making the excavation to proceed with final repair.
 - c. Final repair shall be made in the following manner:
 - (1) The backfill shall be removed to a depth of not less than eight (8) inches below the riding surface.
 - (2) Asphaltic concrete and Portland cement concrete pavement will be repaired by sawing the pavement in a straight line a minimum of eighteen (18) inches

on each side of the excavation. If the cut is within four (4) feet of a longitudinal or transverse joint or crack, the cut will be extended to that joint or crack. Portland cement concrete surfaces will be replaced with an eight (8) inch thickness of Portland cement concrete. Asphaltic concrete surfaces will be replaced with a minimum of a five (5) inch wet compacted base stone, four (4) inches of black base and topped with a two (2) inch thickness of asphaltic concrete for wearing course. If the excavation is within a blacktop or bituminous roadway, the applicant shall place six (6) inches, after completion, of limestone base material and two (2) inches of a commercial mix bituminous material, at a minimum.

13. *Detailed standards and requirements.*

- a. Encasement requirements will be specified by the City in accordance with the City's standards.
- b. Cable, wire, small diameter pipe and other such utility appurtenances extending from the surface of the ground shall be equipped with covers or guards to improve their visibility.
- c. Street ditches, culverts and other such devices used to carry surface runoff will be kept open, free and clear at all times.
- d. All voids resulting from boring or pushing casing or other facilities under roadways or approaches will be filled to the satisfaction of the City by a method and with a material approved in accordance with the City's standards.
- e. Top grade for all manholes will conform to any transverse or longitudinal slope and the top shall be two (2) inches above the curb and finished grade.
- f. Street plant materials, including trees and shrubs, shall be protected. Such materials and turf, which are disturbed, will be restored as directed by the City. Trees and shrubs will not be trimmed, cut, moved or sprayed without specific permission from the City.
- g. All sidewalks, steps, driveway approaches, drainage facilities, erosion protection and/or highway appurtenances in general which are removed or damaged as a result of the work herein will be repaired or replaced to the satisfaction of the City. Applicants will be responsible for such repairs for one (1) year from the date the permit is released.
- h. The cutting of pavement surfaces, benching, filling, and repair of pavement surfaces shall conform to city of Willard Standard Construction Specifications.
- i. Sections of sidewalk or driveway approaches shall be removed to the newest score line, approved saw-cut edge or cold joint
- j. In case of damage to private property located on the City right-of-way with the permission of the City, the applicant will repair or replace such property to the satisfaction of the owner. In all cases, the applicant will notify the owner of such damage immediately.

- k. Construction materials and equipment will not be stored on the roadway or shoulders and will remain as near the right-of-way line as possible. If the applicant is performing work or has a right to the property adjacent to the City's right-of-way, all materials and equipment will be stored on the property.
14. After completion of final repair and acceptance by the City, the person doing the excavating shall remain responsible for the integrity of the repairs and all work done in connection with said repairs for a period of one (1) year from the date of completion.

- H. *Violation And Penalties.* Violation of this Section, including any of its subparts, ~~shall~~ **may** result in the immediate cancellation of the ~~building~~ permit issued for the project; or a fine of not less than ~~twenty-five dollars (\$25.00)~~ one hundred dollars (\$100) or no more than five hundred dollars (\$500.00) **per violation**; or by confinement in the County Jail for a period not to exceed one (1) month or by both such confinement and fine and cancellation of ~~building~~ permit if applicable. In addition, the City may cause the revocation of bond and the collection of insurance proceeds for any destruction done or caused to be done to any improvement located within the City limits. Each day of offense shall be construed to be a separate violation hereof.
- I. **The public works director may order an immediate halt to work being performed in the public way and/or direct city personnel to perform the work and/or remove any stored articles. In addition to any other penalties imposed by this section, the cost necessary to perform the work and/or remove any stored articles will be charged to the permit holder involved at a rate of three times the city's labor, equipment and material costs, plus 40 percent overhead, or \$500.00, whichever is greater**
1. **If an encroachment permit is required and not obtained, the public works director may order an immediate halt to work being performed in the public way until such time that a permit is obtained and located at the work site. In such a case, the amount of the permit fee shall be two times the normal fee and the violator shall be subject to a civil penalty not to exceed \$500.00. Each day of such operation shall be a separate violation. This penalty shall apply to all contractors, utilities, etc.,**
 2. **Whenever a permit holder engaged in construction on public or private property is determined to be in violation of this section, the building official or his/her designee may cause a notice to be posted upon the building site informing the permit holder that no further inspections will be made or approvals granted until all injurious or unsightly substances have been removed from the street, alley, sidewalk, bike path, parking lot or any other public way. Whenever injurious or unsightly substances from several distinct building sites have contributed to the violations of this section, the building official or his/her designee may cause such notice to be posted on each building site fronting on the affected street, alley, sidewalk, bike path, parking lot or other public way.**

Read two times and passed at a meeting of the Board of Aldermen of the City of Willard on the 13th day of January 2025.

Approved as to Form: _____
Nate Dally, City Attorney

Approved By: _____
Troy Smith, Mayor

Attested By: _____
Janice Gargus, City Clerk