

## **ORDINANCE NO. 2004-08**

### **AN ORDINANCE TO ESTABLISH STANDARDS AND SPECIFICATIONS FOR THE RESTORATION OF EXCAVATIONS OR CUTS IN CHEROKEE VILLAGE STREETS OR RIGHT-OF-WAYS; PROVIDING FOR A PERMIT PROCESS; ESTABLISHING FEES AND DEPOSITS PRIOR TO EXCAVATIONS OR CUTS; ENFORCEMENT OF THE PROCESS; AND FOR OTHER PURPOSES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHEROKEE VILLAGE, ARKANSAS:

#### **SECTION I. PERMITS.**

A. It shall be unlawful for any person, firm, corporation, or entity to make or cause to be made any excavation or cut in any city street or right-of-way or other public property of this City without first having obtained a written permit. The normal permit process requires the person, firm, corporation, or entity to appear in person at City Hall and make application in writing for the permit upon a form to be prescribed by the City for that purpose. Failure to obtain a permit in accord with this Ordinance shall subject the violator to a misdemeanor charge and a fine up to \$1,000.00.

The permit application shall be assigned a number and shall state the following:

1. Name, address, and telephone number of the applicant, as well as the name of an individual at that number to be contacted regarding the application.
2. The purpose of the excavation or cut in the road surface.
3. Provide with sufficient specificity the location of the proposed excavation or cut, identification of the existing pavement characteristics, and estimated dimensions, including depth, of the proposed cut.
4. The approximate date on which the excavation or cut shall be made and the estimated date of completion of all restoration work.
5. Payment of a one hundred dollar (\$100) deposit fee per cut with eighty dollars (\$80) refundable when restoration is completed and approved by the City.

In cases of an emergency in which life or property shall be endangered, a person, firm, corporation, or other entity may make an excavation or cut without first obtaining a permit, but shall on the next working day promptly notify the City, providing the same information as would be required for a permit application as set forth in (1) through (5) above.

B. Those persons, firms, corporations, and other entities, which make frequent excavations or cuts in City streets or right-of-ways, may apply for a blanket permit for the purpose of normal utility repairs. Upon written approval by the Mayor or authorized designee, the utility may request permits by telephone by providing the following information:

1. Name and phone number of individual requesting permit.
2. The purpose of the excavation or cut in the road surface.
3. Provide with sufficient specificity the location of the proposed excavation or cut, identification of the existing pavement characteristics.
4. The approximate date on which the excavation or cut shall be made and the estimated date of completion of all restoration work.

This provision is for the convenience of the applicant, and failure of the applicant to abide by the provisions of this ordinance may result in this privilege being denied, suspended, or revoked at the discretion of the Mayor or authorized designee.

The permit shall be issued by the Mayor or authorized designee, and recorded by number.

**SECTION II. BARRICADE PLAN.** The permit holder shall employ a barricade plan for the safety of the public, such plan to be in conformity with barricading in the customary manner regarding the work to be undertaken. The permit holder shall take all reasonable practical steps to facilitate the flow of traffic in the vicinity of the excavation or cut. Work shall be undertaken in a manner to minimize the necessity of closing a street to traffic entirely.

**SECTION III. RESTORATION.** The permit holder shall restore the excavation or cut as soon as possible to the safe flow of traffic, with the final repairs completed within 30 days. If final repairs cannot be completed within 30 days due to inclement weather, repairs must be completed as soon as weather permits. The permit holder shall notify the City Hall upon completion of the restoration. The restoration work shall be such as to restore the cut or excavation portion of the street or right-of-way to the identical state of usefulness and condition as before the excavation or cut, per ATTACHMENT A. If upon inspection by the City Street Superintendent, at any time subsequent to the restoration, it is deemed incomplete or substandard, the City may require the permit holder to undertake such additional work as is necessary to comply with this Ordinance. Failure by the permit holder to comply with such directives shall constitute a misdemeanor. Notification shall be by certified mail, return receipt requested, directed to the address of the listed permit holder. Each day following the date of notification of the violation that the directives are not complied with shall constitute a separate offense, and the violator shall be subject to imposition of fines up to \$100.00 per day until the directives of the City are complied with and the restoration work has been properly completed and approved by the authorized city designee.

Alternatively, the City may select to complete the restoration work itself or contract with a private contractor for proper completion of the restoration work with the costs of such work to be assigned against the permit holder.

Upon completion of work associated with the excavation or cut, as well as the restoration, all debris, excess dirt, and other excess material from the work shall be promptly removed from the road surface.

**SECTION IV. BACKFILL REQUIREMENTS.** Immediately upon completion of any excavation or cuts on city streets or right-of-way, the backfilling of excavations or cuts into the earth beneath any street or road right-of-way under permit from the City shall be made up to the original street surface in specified layers.

- a. The layers shall not exceed six (6.0) inches in thickness and each layer shall be thoroughly rammed and tamped to a density of 95% modified proctor density according to the AASHTOT-180. Such tamping procedure shall continue until the excavation is filled to the proper level.
- b. Only Arkansas Highway and Transportation Department Class 7 Base or equivalent, selected materials shall be used in making the backfill. No broken concrete, rubble, or debris shall be used as backfill, unless, approved in writing by the City.
- c. If the refilling of any excavation is not done in accordance with this Ordinance and in a manner satisfactory to the City, the City shall have the right to cause all materials to be removed from the excavation or cut and have the same refilled in a proper manner at the expense of the permit holder.
- d. If the backfill of any excavation or cut in the road surface settles any time within one (1) year after an excavation or cut has been permanently repaired, the necessary repairs must be made to the surface to return it level to the original surface at the expense of the party responsible for the original excavation or cut permit.

**SECTION V. NEW CONSTRUCTION.** Any new utility construction or major rebuilding of existing public utilities shall not take place beneath existing road surfaces, but rather, construction must take place in the road right-of-way, and where possible, a minimum distance of 24 inches outside of the existing road bed. The only exception to location shall be where proposing utility can demonstrate this to be impractical due to existing terrain, and receives prior approval from the Cherokee Village Planning & Zoning department. Transverse cuts in the road surface are permitted to connect to the existing utilities at the beginning and end of the construction area. Transverse cuts in the road surface are also permitted to provide utility connections to residential or commercial properties that lie on the opposite side of the right-of-way construction. Repair of all excavations or cuts into the road surface must comply with standards set forth in SECTIONS III (Restoration) and IV (Backfill) requirements.

Plans for any construction or rebuilding of public utilities that affect the streets and right-of-ways within the City of Cherokee Village must be submitted to the Cherokee Village Planning and Zoning Department at least 30 days prior to start of construction. This is required to assure that all construction is completed prior to any major repaving project that the City may have scheduled.

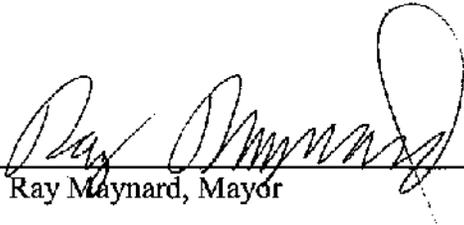
Prior to the start of construction valued at more than \$50,000.00 there shall be a copy of the performance bond issued for the benefit of the applicant on file with the Cherokee Village Planning & Zoning Commission.

**SECTION VI. SEVERABILITY.** If any part of this ordinance shall be held to be invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of the ordinance.

PASSED AND APPROVED BY THE CHEROKEE VILLAGE CITY COUNCIL.

DATED: August 19, 2004

APPROVED:

  
Ray Maynard, Mayor

ATTEST:

  
Susan E. Maynard, Clerk/Treasurer