

## ORDINANCE NO. 2023-08

*An ordinance of the City of Irondale, Alabama to modify  
Chapter 16, Streets and Sidewalks, Article II, Excavations of the Municipal Code of the City.*

**NOW, THEREFORE BE IT ORDAINED** by the City Council of the City of Irondale, Alabama in regular meeting duly assembled, a quorum being present, as follows:

**Section 1. Modification of Chapter 16, Streets and Sidewalks, Article II – Excavations.** Chapter 16, Article II, Sections 16-28 through 16-31 of the *Municipal Code of the City of Irondale, Alabama* are hereby deleted in their entirety and replaced with the following:

### **Chapter 16 – Streets and Sidewalks**

#### **Article II – Excavations**

**Sec. 16-28 – Same—Special charge—When required.** Subject to the provisions of sections 16-29 and 16-30, any person desiring to make or who has under section 16-27 made any opening, cut or excavation in or under the surface of any paved, curbed or otherwise improved street, alley or sidewalk for any rightful or necessary purpose to be accomplished speedily and without undue delay in the event the street to be cut or which has been paved or repaved prior to the application for the permit, shall, at the time the excavation permit is applied for and prior to the issuance thereof pay to the city engineer a special charge, to become a part of the general fund of the city, an amount of \$500.00.

**Sec. 16-29. Same—Same—When payment excused.** In the event that the city engineer shall in his sound discretion, determine that due to circumstances beyond the control of any person who owns such property as to which notice was mailed by certified mail which abuts on or is in any street or alley which has been paved or repaved preceding the application for a pavement cut permit, improvements on the property have been damaged or destroyed in such a manner as to require a permit for pavement cut to be issued pursuant to the rebuilding or repair of such destroyed or damaged improvements, then the city engineer may issue a permit for such pavement cut without requiring the payment of the special charge provided in section 16-28. In no case shall this special charge be required where notice was not mailed by certified mail.

**Sec. 16-30. Same—Provision to be made for restoration of pavement.** Prior to the issuance of any permit required by this article, any person for whom application for a permit is made shall, in addition to payment of the special charge provided for in section 16-28, when the payment is required, make provision satisfactory to the city engineer or his authorized deputy for the restoration of any pavement, sidewalk or curb including, at the discretion of the city engineer or his authorized deputy, the payment of a deposit to the city engineer in a reasonable amount as he or his authorized deputy may determine, to assure the proper and timely restoration of the pavement, sidewalk or curb. Any excess of the deposit over the cost of the restoration shall be refunded to the applicant or his agent or contractor. In all cases where a permit is issued, the restoration shall be made speedily and without undue delay, in accordance with applicable specifications on file in the office of the city engineer, under his supervision or that of this

authorized deputy and subject to his final acceptance, this work to be done by a licensed contractor, provided, that in the event a permit is issued to a public utility corporation, the work may be done if authorized in writing by the city engineer or his authorized deputy by competent employees of such utility and shall in all events be in accordance with specification, supervision and final acceptance hereinabove set out.

**Sec. 16-31. Same—Issuance; fee; bonding of excavation contractors.**

- (a) All paving required by this article shall be issued by the city engineer or his authorized deputy, copy of which shall be furnished to the superintendent of streets and sanitation. A permit fee of \$5.00 shall be paid for each permit and \$500 per excavation site, prior to issuance. The provisions of this section shall apply to all persons alike, whether they are authorized by law or franchise to excavate in or under any of the streets or sidewalks of the city or not.
- (b) Prior to, and as a specific condition to, the issuance of any permit required by this article, any permittee for whom application for a permit is made to make any opening, cut, or excavation in or under the surface of the public way of the city shall keep on deposit with the public works department of the city funds required by this article, and continuously maintain a good and sufficient bond in the sum of at least ten thousand dollars (\$10,000.00) or in such amounts, as depending on the risk to the city, based on the number of permits issued to the applicant or permitted in a calendar year, approved by the city official, and made by a surety company duly authorized to do business in the state. Said bond shall be conditioned that the person, firm, or corporation, to be known as the principal in said bond shall observe all ordinances and laws of the city pertaining to said business or businesses, whether now or hereafter enacted, together with all rules, specifications, and regulations established under the authority of said laws or ordinances and this article; shall perform in a workmanlike manner all work undertaken by said principal, its servants or agents, in the prosecution of said business or businesses; and shall indemnify and save harmless the city from all liability occasioned or arising from any activities by said principal, its servants and agents, in any way related to said activities; and shall adequately safeguard all excavations which may be opened by said principal in the public way of said city; and shall restore, or cause to be restored, if directed by the city, in accordance with the city's then current specifications and details, all such portions of said streets, alleys, sideways, and other public ways excavated by said principal, its servants or agents, and shall pay the costs and expenses thereof, and shall pay all such damages as any person, firm, or corporation may sustain by reason of the activities by said principal, its servants or agents, in the prosecution of said business or businesses. Any person, firm, or corporation injured in person or property by reason of the activities of said principal, its servants or agents, or by an act, default, or omission constituting a breach of any of the conditions of any bond, may maintain a suit or action thereon for such injury. Said bond shall also provide that it may be cancelled by the surety by giving the city official thirty (30) days' notice in writing prior to the date of cancellation.

- (c) The bond requirements shall be fulfilled prior to and during the term the permittee has a license to conduct excavation work in the city.
- (d) The bonding requirements of this article shall not apply to any department of the city.

**Section 2. ORDINANCES REPEALED.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 3. SEVERABILITY.** That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Irondale hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 4. LEGAL RIGHTS NOT IMPAIRED.** Nothing in this ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**Section 5. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS.** This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

**Section 6. PUBLICATION OF ORDINANCE.** The City Clerk of the City of Irondale is hereby ordered and directed to cause this Ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

**Section 7. EFFECTIVE DATE OF ORDINACNE.** That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect upon adoption and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

**ADOPTED & APPROVED:** This 21st day of February, 2023.

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David Spivey, City Council President

**APPROVED:**

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James D. Stewart, Jr., Mayor

**ATTESTED:**

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Leigh Ann Allison, City Clerk

**CERTIFICATION**

I, Leigh Ann Allison, City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Irondale at its regular meeting held on the 21st day of February, 2023, as the same appears in the minutes of record of said meeting.

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Leigh Ann Allison, City Clerk