

ORDINANCE NO. 2008-10

AN ORDINANCE REGULATING DISTURBING ANY RIGHTS OF WAY, STREETS, ALLEYS OR OTHER PUBLIC PLACES IN THE TOWN OF MAGNOLIA SPRINGS, STATE OF ALABAMA, AND FUTURE ADDITIONS; PRESCRIBING CERTAIN DUTIES AND CONDITIONS; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND REPEALING CONFLICTING ORDINANCES.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MAGNOLIA SPRINGS, ALABAMA, AS FOLLOWS:

SECTION ONE

PERMIT REQUIRED

It shall be unlawful to dig any ditch or to make any excavation of any kind, or to cause any disturbance to or repair, modification or improvement on, under or above, any right of way, street, alley or other public place in the Town of Magnolia Springs, Alabama, without first filing with the Town or its designee ("Town") an application in writing on such form as the Town may prescribe in obtaining a formal permit for such work. For the purpose of this ordinance, cutting grass and/or trimming existing shrubbery on the Right of Way in front of personal property is not considered a disturbance and is exempt from the requirements for a permit.

SECTION TWO

APPLICATION FOR PERMIT

Application shall be made by the person, or his or her agent, for or on whose account the proposed work is to be performed. "Person" shall include a partnership, firm or corporation for the purposes of this ordinance. A fee of **\$10.00** shall be charged by the Town for each permit issued, subject to the further provisions of this ordinance.

SECTION THREE

WORK PERFORMED UNDER PERMIT

All work performed under a permit issued by the Town shall be performed in accordance with the practices and standards established by the Town with respect to disturbances as described in Section One of this ordinance. The work shall be performed so as to cause minimum interference with the proper and usual use of the rights of way, streets, alleys or other public places of the Town of Magnolia Springs; it shall be completed within the time specified by the permit or, absent such, within 30 days; and the property disturbed shall be restored to as good condition as it was in before such disturbance, subject to the Town's approval and within 24 hours of completion. The person performing work under the permit shall be responsible for any faulty or defective restoration regardless of when it occurs or if previously approved by the Town. The Town of Magnolia Springs shall have the right to restore the property disturbed to its prior condition at the expense of the person obtaining the permit for the work.

SECTION FOUR

ESTABLISHMENT OF REGULATIONS AND SPECIFICATIONS

The Town may establish regulations, specifications and/or conditions for work performed within a public right of way, street, alley or other public place for their protection and for the protection of the Magnolia River and its tributaries, public improvements and/or persons and property as may be deemed necessary in the discretion of the Town. It shall be

unlawful for any person to perform any work within a public right of way street, alley or other public place in violation of any applicable law, rule, standard or specification and/or the terms and conditions set forth in the permit as prescribed by the Town. In addition, the Town may establish a time limit in which the work is required to be completed under the permit which is either shorter or longer than is required under this ordinance.

SECTION FIVE

SEPARATE PERMIT REQUIRED FOR EACH PROJECT

A separate permit shall be required for each disturbance as described in Section One of this Ordinance. The permit must be obtained at least two working days prior to the commencement of the work. The permit shall be kept at the site of the work and shall be exhibited upon request by any law enforcement officer or any authorized representative of the Town including the Mayor, Council Members or their designee.

SECTION SIX

INSPECTION

The Town shall have the right and authority to inspect all work performed under the permit. The Town may be present on the site to advise contractors on the applicable laws, rules, standards and specifications, and the Town shall have the authority to reject any defective materials and workmanship not in conformance with the permit and applicable laws, rules, standards and specifications governing the work done under the permit.

SECTION SEVEN

COMPLIANCE WITH OTHER REQUIREMENTS OF LAW, INCLUDING FRANCHISE

Compliance with the permitting requirements with this division shall not excuse any person, entity or governmental agency from complying with all other requirements of law, including without limitation, holding a valid franchise of the Town.

SECTION EIGHT

REVOCATION

The Town may revoke the permits provided for under this ordinance at any time and at the Town's discretion.

SECTION NINE

EMERGENCY WORK OR REPAIRS

If emergency work or repairs are required, within 48 hours after the occurrence of the emergency, any person, firm, contractor, corporation or other entity performing the work shall apply for the necessary permit, pay the fees associated therewith and fulfill the rest of their requirements necessary to bring itself into compliance with this ordinance for the action it took in response to the emergency. Before acting without a permit, the person, firm, contractor, corporation or other entity must make a good faith attempt to notify the Town of the situation and obtain oral permission to begin work without a permit. Emergency situations do not excuse the person, firm, contractor, corporation or other entity from complying with all other laws, regulations, practices and standards, including the terms of franchise agreements.

SECTION TEN

EFFECTIVE DATE

This ordinance shall become effective upon its adoption and publication.

SECTION ELEVEN

INDEMNITY


The Town of Magnolia Springs shall not be liable or responsible for any acts or damages that may occur in the performance of any work by the holder of a permit, and the issuance of a permit by the Town of Magnolia Springs shall be deemed an agreement on the part of the permittee to indemnify the Town and hold it harmless against any and all liability, loss, cost, damage or expense that may accrue to the Town because of the negligence or misconduct in the performance of any work by the permittee.

SECTION TWELVE

REPEALER

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are repealed.

ADOPTED and APPROVED this 28th day of October, 2008.



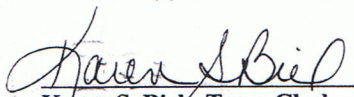
Charles S. Houser - Mayor

ATTEST:



Karen S. Biel - Town Clerk

Town of Magnolia Springs, Alabama, certificate of publication. This is to certify that Ordinance No. 2008-10, Town of Magnolia Springs, Alabama, was published by posting on at least three (3) bulletin boards in the Town from October 29, 2008 to November 3, 2008.



Karen S. Biel - Town Clerk