

ORDINANCE NO. 086-017

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING SECTION 16-58 and SECTION 16-60 OF CHAPTER 16, DIVISION 2 CONSTRUCTION, OF THE CODE OF ORDINANCES OF THE TOWN OF ADDISON, TEXAS, PROVIDING FOR APPLICATION OF PERMIT AND REVOCATION AND/OR SUSPENSION OF PERMIT; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. That Section 16-58 of Chapter 16, Division 2, of the Code of Ordinances of the Town of Addison, Texas, is hereby amended to read as follows:

Sec. 16-58. Application. No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the Director of Streets. The written application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and date of completion of the excavation, and other data as may reasonably be required by the Director of Streets. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to said excavation and of the proposed excavated surfaces, the loca-

tion of the excavation work, and such other information as may be prescribed by the Director of Streets. Furthermore, the application shall disclose the date on which the excavation work will be finished and the street restored to its original condition. No application shall be accepted by the Director of Streets more than ten (10) working days prior to date of commencement. A permit issued pursuant to this ordinance shall be automatically revoked if excavation work is not commenced within ten (10) days from the issuance of such permit.

Sec. 16-60. Suspension and/or Revocation of Permit.

1. Permits may be suspended by the Director of Streets on the following grounds:

(a) failure of Permittee to start excavation work on the commencement date provided for in the application or to diligently do such work after beginning;

(b) violation of any terms or provisions of the Street Excavation Ordinance of the Town of Addison, as amended;

(c) giving false information upon the application;

(d) changing of subcontractors responsible for the excavation work.

(e) failure of Permittee to finish the work on or before the finish date set forth in the application.

Whenever a permit holder has failed to comply with any

notice issued under the provision of this ordinance, the permit holder shall be notified in writing that the permit is, upon the service of the notice, immediately suspended, and that an opportunity of hearing will be provided if a written request for a hearing is filed with the Director of Streets by the permit holder. Notwithstanding the other provisions of this ordinance, whenever the Director of Streets finds the conditions of the excavation work, which in his judgment, constitutes a substantial hazard to the public, he may without warning, notice or hearing, issue written or oral notice to the permit holder, citing such conditions, corrected actions to be taken; and if deemed necessary, such order shall state that the permit is immediately suspended, and all excavation work is to be immediately suspended except for returning the street to a usable condition. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Director of Streets, shall be afforded a hearing as soon as possible.

2. Any person whose permit has been suspended may, within five (5) days of the suspension, make application for reconsideration for the purpose of reinstatement of the permit. Within five (5) days following receipt of a written request, including a statement signed by applicant that in his opinion the conditions causing suspension of the permit

has been corrected, the Director of Streets shall reconsider the alleged violation. If the applicant is complying with the requirements of this ordinance, the permit shall be reinstated.

3. For serious or repeated violations of any of the requirements of this ordinance, including, but not limited to the failure to timely complete the excavation work, or for interference with the Director of Streets' performance of his duty, the permit may be permanently revoked after an opportunity for a hearing has been provided for by the Director of Streets. Prior to such action, the Director of Streets shall notify the permit holder, in writing, stating the reasons for which the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless a request for hearing is filed with the Director of Streets, by the permit holder within such five (5) day period. As provided above, the permit may be suspended for cause pending its revocation of a hearing relative thereto. If no request for hearing is filed within the five (5) day period, the revocation of the permit becomes final.

4. The notice provided for in this section is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the address

shown upon the application required to be submitted under this ordinance.

5. The hearing provided for in this section shall be conducted by a committee at a time and place designated by the Director of Streets. The committee shall be comprised of the Director of Streets, Director of Building Inspectors, and Director of Water and Sewer Department. Based upon the record of such hearing, the committee shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the committee.

6. The applicant shall not be entitled to refunding of a permit fee where a permit is revoked or suspended.

7. If a permit is revoked pursuant to the foregoing subsections, the Director of Streets shall have the option to pursue any one or more of the following remedies without any notice or demand to the permit holder whatsoever:

(a) direct the Director of Building Inspection to revoke the building permit related to the excavation work, if any;

(b) cause to be performed work necessary to correct and repair the street to its condition prior to the beginning of the excavation work and to charge the cost of such repair to the permittee or owner of the

property for whom the excavation work was to be benefit;

(c) shall not accept an application for additional or new excavation work from an applicant whose permit has been revoked within a three (3) year period.

SECTION 2. Any person, firm or corporation violating any of the provisions of this Ordinance, shall upon commission be deemed guilty of a misdemeanor, and shall be subject to a fine not to exceed the sum of Two Hundred and no/100 Dollars (\$200.00) for each offense, and each day such violation continues shall constitute a separate offense.

SECTION 3. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.


SECTION 5. The fact that the present Code does not provide for revocation or suspension of permit, and is therefore inadequate to properly safeguard the general public, health and

safety, creates an emergency and an imperative public necessity,
and the ordinance shall take effect and be in force from and
after its adoption.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON,
TEXAS, this the 25th day of February, 1986.

MAYOR 

ATTEST:


CITY SECRETARY

3-2-86
Ruth.

