

AN ORDINANCE RELATING TO HOLMES COUNTY; AMENDING EXISTING COUNTY ORDINANCE NO. 83-2; REQUIRING PERSONS TO OBTAIN A PERMIT BEFORE ALTERING THE SURFACE OR ANY AREA BENEATH THE SURFACE OF A COUNTY RIGHT OF WAY OR INSTALLING UNDERGROUND UTILITY LINES IN A COUNTY RIGHT OF WAY; PROVIDING FOR FEES FOR SUCH PERMITS; PROVIDING FOR A CHARGE FOR EACH FOOT OF RIGHT OF WAY USED; PROVIDING FOR THE ESTABLISHMENT OF STANDARDS FOR ALTERATION OF COUNTY RIGHT OF WAYS; PROVIDING FOR EMERGENCY SITUATIONS; PROVIDING FOR BOND REQUIREMENTS; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY:

Section 1. PROCEDURE FOR MAKING ROAD CUTS.

a) It shall be unlawful for any person, firm, business, or public or private utility to cut, alter or in anyway disturb the surface or any areas beneath the surface of any County right of way; or to install underground facilities in any portion of a County right of way without first having obtained a permit from Holmes County. The following conditions are specifically exempt from the permitting requirement:

1. The maintenance of existing underground facilities, provided such work is accomplished without cutting paved road surfaces or paved ditches and does not require jacking and boring under those paved surfaces;
2. The installation of underground facility service connections provided that it does not cross the paved portion or any area beneath the paved portion of: (1) any County rights of way; or (2) any County drainage ditch.
3. The installation of poles, anchors, guy wires and other facilities required for overhead utility lines.
4. Any work performed and approved pursuant to the Holmes County Subdivision Regulations.

b) Any person, firm, business, or public or private utility wishing to perform work described in Section 1 (a) shall make application for a permit to the Holmes County Road Department.

c) The Holmes County Public Works Department shall establish standards for such work. Said standards shall provide that jacking and boring shall be used whenever possible on paved roads. It shall be unlawful for any person, firm, business, or public or private utility to perform the work described

in Section 1 (a) in violation of the standards established

d) There shall be a \$25.00 fee for obtaining a permit pursuant to this ordinance. The Board of County Commissioners, by resolution, may from time to time increase the permit fee, calculated so as not to exceed the cost to the County of making the required inspection. Any person who performs any work for which a permit is required by this ordinance without first having obtained a permit, except as provided for in emergency situations, shall pay an increased fee in the amount of double the regular permit fee. All increases shall be considered at a public hearing, notice to be given by placement in a newspaper of general circulation in the County at least ten (10) days prior to the scheduled public hearing, stating the time and place of said hearing.

e) Prior to the issuance of a permit to cut, alter, or disturb the surface or any area beneath the surface of any County right of way, the Applicant shall deposit with the County a Surety Bond in an amount and form as shall be determined by the Director of the Holmes County Road Department. The amount of Surety Bond shall be established separately for each permit so that the County will be protected against loss in the event of the failure of the permit holder to complete the work or make required repairs or reresoration of damages involving the work or incroachment authorized by the permits.

f) Prior th the issuance of a permit hereunder, the applicant shall pay to the Holmes County Road Department the sum of .10¢ per foot for each foot of Holmes County right of way used, said sum to be in addition to the permit fee. The Bond shall be released to the permit holder upon the expiration of the guarantee period. The guarantee period shall be for a period of one year following the work performed. During the guarantee period the permittee shall be responsible for the restoration, repair, and maintenance of his work.

An annual blanket Surety Bond, in the amount of \$5,000.00, may be deposited to avoid the inconvenience and expense of obtaining individual bonds for each permit requested. This annual bond may also be increased in the same manner provided for the permit fees.

## Section 2. DEFINITIONS

### a) County Right-of-way

Any Holmes County road or highway acquired by Holmes County by purchase, gift, devise, dedication, maintenance, or prescription, excluding those roads dedicated to the public but not accepted for maintenance by Holmes County.

b) Facilities

All privately or publicly owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, gas, oil, water, steam, waste, storm water, television and other similar commodities.

c) Facility Service Connections

That portion of a facility that connects individual customers with facility transmission lines.

Section 3. EMERGENCY PROVISION.

In the event of an emergency where immediate work is needed in order to prevent the loss of telephone, cable or utility services or in order to restore such telephone, cable or utility services, a permit shall not be required prior to performing such work. In this situation, the person, firm, business or utility performing such emergency work shall apply for the permit within 72 hours after having performed the emergency work, and shall be required to restore the right of way according to the standards established pursuant to this ordinance.

Section 4. SEVERABILITY.

If any section, subsection, sentence or clause or other provision of this ordinance is held invalid the remainder of this ordinance shall not be affected by such invalidity.

Section 5. PENALTY

Anyone violating this ordinance shall be guilty of a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or by a fine not exceeding \$500.00 or both, and each day such violation continues shall constitute a separate offense.

Section 6. INJUNCTIVE RELIEF.

The Board of County Commissioners may institute a civil action in a court of competent jurisdiction to seek appropriate relief to enforce compliance with this ordinance. All remedies that are provided within this ordinance shall be independent and cumulative.

Section 7. EFFECTIVE DATE.

In accordance with Section 125.66(2), Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment, and this ordinance shall take effect upon receipt of official acknowledgement that said ordinance has been filed.

PASSED AND ADOPTED by the Board of County Commissioners of Holmes County, Florida, this 21<sup>st</sup> day of October, 1985.

BOARD OF COUNTY COMMISSIONERS  
HOLMES COUNTY, FLORIDA

*Paul Jernigan*

Paul Jernigan, Chairman

ATTEST:

By: *Cody Taylor*

Cody Taylor, Clerk

