

ORDINANCE NO. 175**AN ORDINANCE ESTABLISHING PROCEDURES FOR MAKING EXCAVATIONS IN STREETS, ALLEYS, AND OTHER PUBLIC RIGHTS OF WAY; PROVIDING FOR PERMITS; AND ESTABLISHING A PENALTY.**

The City of Coos Bay ordains as follows:

Section 1. Required Permit. No person shall make any excavation or tunnel under any area within a public right of way within the City of Coos Bay without first securing a permit therefor from the Public Works Director.

Section 2. Exemption. Utilities, as defined in Ordinance No. 72, are exempt from the provisions of this ordinance and are regulated by Ordinance No. 72.

Section 3. Definitions. As used in this ordinance, unless the context requires otherwise:

Excavation. Any digging, scooping, or other method of removing earth materials.

Person. A natural person, firm, partnership, corporation, or other association, acting individually or through an agent or employee.

Public Right of Way. Any part of the full dedicated width or length of a public street, alley, place or easement.

Section 4. Permit Application and Fee. Application for an excavation shall be made on forms provided by the Public Works Department. Fees shall be set by resolution of the Council.

Section 5. Permit Requirements.

(1) Applications shall describe the location of the intended excavation, the size thereof, the purpose thereof, the name of the person doing the actual work, and the name of the person for whom the work is being done.

(2) The application shall contain a provision, and the applicant shall agree in writing thereto, that the applicant will comply with all requirements relating to the work to be done.

(3) The application shall be accompanied by a cash deposit in an amount determined to be sufficient by the Public Works Director to insure proper restoration of the right of way. From this deposit shall be deducted the expense, if any, to the

City of clean up and removal of unused material and debris. The balance shall be returned to the applicant after the excavation is completed and the public right of way restored to the satisfaction of the Public Works Director.

(4) Unless waived by the Public Works Director, the applicant and/or the contractor doing the work shall furnish a bond or proof of insurance to indemnify and hold the City harmless and free of any liability arising out of such work.

Section 6. Manner of Excavating.

(1) It shall be unlawful to make any excavation in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground. The excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

(2) No injury shall be done to any pipes, cables or conduits in the making of excavations or tunnels; and notice shall be given to the persons maintaining any pipes, cables or conduits, which are or may be endangered or affected by the making of any excavation before such pipes, cables or conduits shall be disturbed.

(3) No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

(4) After an excavation is commenced the permittee shall proceed with diligence and promptly complete the work.

Section 7. Inspection of Work. All work shall be subject to inspection by the City. Public Works shall be notified before any work commences. Permittee shall not proceed until authorized at each step of the project.

Section 8. Barricades. Permittee shall adequately barricade his work and shall install sufficient warning lights and signs to protect the public.

Section 9. Placement of Excavated Material.

(1) All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Public Works Director. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required to prevent the spreading of dirt into traffic lanes.

(2) Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Public Works Director shall have the authority to require that the permittee haul the excavated material to a storage site and then re-haul it to the trench site at the

time of backfilling.

- (3) It shall be the permittees responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

Section 10. Clean Up.

- (1) As the excavation work progresses, all public right of ways shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work.
- (2) All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of Public Works.
- (3) From time to time, as may be ordered by the Public Works Director, and in any event immediately after completion of said work, the permittee shall, at his own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four hours after having been notified to do so, said work may be done by the city and the cost thereof charged to the permittee.

Section 11. Resurfacing. Unless otherwise stipulated in the permit, all backfilling or pavement resurfacing after excavation shall be done by the city. The city shall make a charge for such work according to a schedule of costs established by the Public Works Director, copies of which schedule shall be available at the city, as revised from time to time. The estimated charge shall be paid in advance. Any difference shall be calculated after work is completed.

Section 12. Urgent Work. When traffic conditions or the safety or convenience of the traveling public require that the excavation work be performed as emergency work, the Public Works Director shall have full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee twenty-four hours a day to the end that such excavation work may be completed as soon as possible.

Section 13. Emergency Work. Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply the Public Works Director for such a permit on the first working day after such work is commenced.

Section 14. Noise, Dust, and Debris. Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate

measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris. Between the hours of 6 p.m. and 7 a.m. permittee shall not use, except in case of emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

Section 15. Penalties. Any person violating any of the provisions of this ordinance shall be fined not less than \$25.00 nor more than \$500.00 for each offense; and a separate offense shall be deemed committed on each day during or which a violation occurs or continues.

The foregoing ordinance was duly passed by the City Council this 20th day of August, 1991.