

ORDINANCE NO. 707

AN ORDINANCE REGULATING STREET EXCAVATIONS: IMPOSING REQUIREMENTS FOR THE PROTECTION OF THE PUBLIC IN CONNECTION THEREWITH; REGULATING THE BACK FILLING AND RESURFACING; PROVIDING PENALTIES FOR THE VIOLATION HEREOF; REGULATING THE USE OF STREETS, ALLEYS, AND SIDEWALKS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE CITY OF PRINEVILLE ORDAINS AS FOLLOWS:

Section 1. No person, firm or corporation nor any employee, agent or representative of any such person, firm or corporation shall dig a hole or holes or make an excavation or excavations in or upon any street, alley, or sidewalk of the City of Prineville; change, alter or destroy the surface of any such street, alley, or sidewalk; obstruct the reasonable use of pedestrian travel over and upon such street, alley, or sidewalk; or cause, or attempt to cause, any or all of the same to be done by any other person, firm, or corporation, employee, agent or representative whomsoever, without first having notified the City Council or its duly appointed and authorized official of its intention so to do, except in the case of emergencies as hereinafter set out.

Section 2. The City Administrator of the City of Prineville is hereby named and designated as said duly appointed and authorized official as such official is named and referred to in Section 1, and to such effect the said City Administrator is hereby delegated with full power and authority to act for the City Council in the matter of such consent and permission.

As used in this ordinance the word "streets" shall include all streets, sidewalks, alleys and curbsings within the City of Prineville.

The provisions of this ordinance with reference to notification to City and payment of an inspection fee do not apply to cuts or excavations in the streets, alleys, or sidewalks of the City in unimproved areas where the cuts or excavations, as the case may be, are less than twenty feet long and not over six inches wide, provided, however, any persons or individuals or corporations making any such cuts or excavations shall replace the same and <sup>prepare</sup> ~~prepare~~ such cuts or excavations in materials similar to the materials removed.

Also, the provisions of this ordinance shall not apply to the installation of utility poles and boxes except in areas where the streets, alleys, or sidewalks are surfaced.

Section 3. Notification referred to in Section 1 of this ordinance shall be in writing addressed to the City Administrator of the City of Prineville and shall set forth therein a full description of the excavation proposed to be made or the changing, altering, or restoring of the surface of the street, alley, or sidewalk, and such person, firm, or corporation giving such notification for a street cut shall at the time of giving such notice deposit with the City Recorder a cash deposit or a personal check payable to the City of Prineville or order in a sum based on the extent of the excavation as determined from time to time by the City of Prineville, such sum to be as a guaranty and pledge to the City of Prineville by the said applicant against any and all loss, damage or expense that may thereafter arise or be caused by said applicant, its agents or employees, in the accomplishment of the purpose or purposes contained in the written request above required. Such sum shall include a deposit for the cost of the inspection of the restoration and repair work based on \$5.00 for the

first hundred feet of excavation contemplated by said application and \$1.00 for each additional hundred feet thereof or any portion of such excess; no person, firm or corporation having an existing Franchise agreement with the City of Prineville shall be required to make the deposit herein required, but shall pay the inspection as set out herein.

The sum of money so paid hereunder shall be deposited in the Treasury of the City of Prineville and shall be held until the ~~City~~ City Council or its authorized agent shall authorize the return of the money or some part thereof to the person so paying said sum.

Section 4. In the event of an emergency presenting a potential danger to public safety, no written notification need be given the City prior to correcting the situation occasioned by such emergency until the close of the business day after the emergency condition has been discovered.

Section 5. All portions of the cut which lie within the curb-lines of the street or other actual traveled portion of the street as designated by the City Administrator shall be backfilled with Class 2 material which complies with Oregon State Highway standard specifications, tamped to achieve uniform compaction. On streets having asphaltic paved and/or impregnated surfaces, a minimum of four inches of compacted hot-mix asphaltic concrete shall be placed in the upper portions of the pavement cut and be rolled and/or tamped to the grade of the surrounding pavement. The same standards shall be applied to the sidewalks, except when the sidewalk is composed of poured concrete, the complete section of sidewalk, where cut, shall be replaced with concrete. Temporary cold asphalt patches on paved street must be placed over the opening within 24 hours after the completion of the construction work which necessitated the street opening. All such temporary patches must be replaced with hot asphalt permanent patches within a reasonable time, giving consideration to weather conditions and practicalities of delivering hot asphalt to Prineville in reasonable quantities.

On graveled and unsurfaced streets and on the shoulders of paved streets the applicant shall place a minimum of six inches of compacted crushed rock having a graduation of 3/4 minus, which shall be rolled and/or tamped to the grade of the surrounding surfacing. All backfilling and resurfacing shall be inspected and approved by the City. The applicant shall pay to the City an inspection fee for each project covered by an application as contemplated by the ordinance.

Section 6. All cuts or excavations in the city streets, sidewalks or alleys made by a regulated public utility shall be repaired according to the standards as set out herein and within a reasonable time after completion thereof, and if such utility shall fail to do so, after written notice by the City, the City may proceed to make such repairs and restore said street, alley or sidewalk and charge the same to such utility responsible for the restoration of the street, the same to be charged at the prevailing rate at such time for such work in the City of Prineville, plus an additional ten percent thereof to cover administrative cost.

Section 7. The applicant shall inform himself as to the existence and location of all underground utilities and protect the same against damage. The applicant shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewers, gas pipes, electric conduits or other utility facilities.

After an excavation is commenced, the applicant shall prosecute with diligence and expedition all excavation work covered by his application, and shall promptly complete such work and restore the street to its

original condition, or as near as may be, so as not to obstruct the street or travel thereon more than is reasonably necessary.

Section 8. The applicant shall take appropriate measures to assure that, during the performance of the excavation work, traffic conditions as near normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public.

Section 9. For a period of twelve months following the completion of the work and the restoration of a street, the person who opened the street shall be responsible for the condition of the fill and replacement and of the resurfacing. All necessary steps shall be taken to insure that the street remains in good condition, without settlement, at the location of said work. Should the trench settle during this period, it is the responsibility of the applicant to bring the street back to proper grade. Acceptance or approval by the City of any excavation work and the replacement thereof and resurfacing, if any, shall not prevent the City from asserting a claim against the applicant for incomplete or defective work if discovered within twelve months from the completion of the work.

Section 10. Any person violating the provisions of this ordinance, upon conviction thereof, shall be punished by a fine of not less than \$25.00 nor more than \$500.00, or by imprisonment in the city jail for a period of not to exceed six months, or by both.

Section 11. All other ordinances or parts of ordinances in conflict herewith are hereby repealed except existing franchise ordinances.

Passed by the City Council this 11<sup>th</sup> day of DEC. 1973.

Approved by the Mayor this 11<sup>th</sup> day of DEC. 1973.

  
MAYOR

ATTEST:

  
CITY ADMINISTRATOR