

ORDINANCE NO. 181

AN ORDINANCE REGULATING STREET EXCAVATIONS, REQUIRING A PERMIT THEREFOR, 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 AND ALLEYS, AND REPEALING ORDINANCE NO. 50, AND DECLARING AN EMERGENCY.

THE CITY OF BROOKINGS ORDAINS AS FOLLOWS:

Section 1: No person, firm or corporation nor any employee, agent or representative of any such person, firm of corporation shall dig a hole, or holes, or make an excavation or excavations in or upon any street or alley of the City of Brookings; change, alter or destroy the surface of any such street or alley; obstruct the reasonable use of such street or alley by the public or the regular flow of vehicular or pedestrian travel over and upon such street or alley; 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 applied to the City Council and having first received from the said City Council, or its duly appointed and authorized official, its consent and permission therefor and thereto.

Section 2: The City Superintendent of Streets of the City of Brookings 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 Superintendent of Streets is hereby delegated with full power and authority to act for the City Council in the matter of such consent and permission.

Section 3: Any person, firm or corporation or any other person named or referred to in Section 1 shall, before digging a hole, making an excavation, changing, altering, destroying or obstructing, upon, to or in any street

or alley of the City of Brookings, for any cause or purpose whatsoever, shall make written application to the City of Brookings, addressed to the City Superintendent of Streets of Brookings, applying in said application for the permission and consent of the City of Brookings so to proceed. Such applicant shall, in its or his said written application, set forth therein the reason or reasons upon which the said application is based, the purpose to be accomplished for which said application is made and the period of time to be covered in the accomplishment of said purpose. Said application shall be in substantially the form set forth in Exhibit A attached to this ordinance and hereby made a part hereof as though set out in full and at length herein.

Section 4: Any person, firm or corporation making such an application for a street cut shall, at the time and place of filing of such application and before a permit shall issue, deposit with the City Recorder a cash deposit or cashier's check drawn on or against an Oregon banking institution and payable to the City of Brookings, or order, in a sum of not less than \$250.00 as a guarantee and pledge of said City of Brookings by 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 said application as made by said applicant, and to insure the performance of the terms and conditions of said permit and this ordinance. The money so paid hereunder shall be deposited in the treasury of the City of Brookings and shall be held ~~out~~^{until} the City Council, or its authorized agent, shall authorize the return of the money, or some part thereof, to the applicant so paying the said

money.

Section 5: A minimum deposit of \$250.00 shall be required with all applications. In addition to the minimum \$250.00 deposit the following additional sums will be required to be deposited with the application and before any permit is issued:

<u>Trench Width</u>	<u>Deposit Required per Lineal Foot of Cut Lying Within the Street Right of Way</u>
1.5 feet or more, but less than 2.0 feet	\$1.50 per foot
2.0 feet, or more, but less than 2.5 feet	2.00 per foot
2.5 feet or more, but less than 3.0 feet	2.50 per foot
3.0 feet	3.00 per foot

For all trench widths exceeding 3.0 feet in width and exceeding 300 feet in length, before the street cut permit can be issued it shall be first approved by the Mayor and City Council in session. The above may be waived in case of emergency which endangers the public health, safety or sanitation.

Section 6: 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 Street Superintendent shall be back filled with wetted sand and shall be 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 sidewalks, except when the sidewalk is composed of poured concrete the sidewalk, where cut, shall be replaced with concrete.

On graveled and unsurfaced streets and on the shoulders of paved streets the permittee shall place a minimum of six inches of compacted crushed rock having a gradation of 3/4 minus, which shall be rolled and/or tamped to the grade of the surrounding surfacing.

Section 7: All deposits made by applicants shall be retained by the City until the Street Superintendent gives approval of the replacement. The Street Superintendent shall, within forty-five days of the completion date stated on the permit, and any extension thereof if an extension be granted, either approve or reject the replacement made by the permittee. If the replacement is approved, the money on deposit shall be returned to the permittee. No deposit shall be returned until the Street Superintendent shall have given written approval of the replacement. If the replacement is rejected, the permittee shall be informed in writing of such rejection and must, within 30 days of such notification, correct the replacement to the standards of this ordinance as applied by the Street Superintendent. If the permittee fails to make the necessary corrections, his deposit will be retained by the City and the City of Brookings will proceed to make the necessary correction.

Section 8: The permittee shall inform himself as to the existence and location of all underground utilities and protect the same against damage. The permittee 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.

Section 9: The permittee 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 10: After an excavation is commenced the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit 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 11: For a period of nine 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 permittee to bring the street back to proper grade.

Section 12: 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 permittee for incomplete or defective work if discovered within twelve months from the completion of the work.

Section 13: Should the person who opens a street under the authority granted by this ordinance fail to reconstruct the street in the manner required hereunder, the City shall notify the permittee of the violation and if said violation has not been corrected within 10 days of the notification the City may take steps deemed reasonably necessary to place the street in proper condition and may

TAKE ALL LEGAL MEANS OF RECOVERING THE COST THEREOF FROM THE PERMITTEE.

SECTION 14: NO NEW EXCAVATION PERMITS WILL BE ISSUED TO ANY PERSON WHOSE WORK HAS NECESSITATED CITY ACTION UNDER THE PROVISIONS OF SECTION 13 OF THIS ORDINANCE.

SECTION 15: IT SHALL BE UNLAWFUL FOR ANY PERSON DOWNING, CONTROLLING, USING OR OPERATING ANY WATER MAIN, IRRIGATION OR DRAINAGE PIPELINE OR DITCH, FLUME OR OTHER STRUCTURE TO PERMIT ANY WATER FROM SUCH WATER MAIN, PIPE LINE, DITCH, FLUME OR OTHER STRUCTURE TO FLOW, WASTE OR SEEP INTO ANY STREET OR ALLEY OF THE CITY OF BROOKINGS IN SUCH MANNER AS TO DAMAGE OR INJURE SUCH STREET OR ALLEY OR AS TO INTERFERE WITH TRAFFIC THEREON.

SECTION 16: ANY PERSON VIOLATING THE PROVISIONS OF THIS ORDINANCE, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN \$5.00 NOR MORE THAN \$500.00, OR BY IMPRISONMENT IN THE CITY JAIL FOR A PERIOD OF NOT TO EXCEED 6 MONTHS, OR BY BOTH.

SECTION 17: ORDINANCE No. 50 OF THE CITY OF BROOKINGS PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR ON AUGUST 11, 1953 IS HEREBY REPEALED.

WHEREAS, IT IS NECESSARY THAT MORE EFFECTIVE AND REALISTIC PROVISIONS BE MADE WITH REGARD TO EXCAVATIONS IN THE CITY STREETS FOR THE PURPOSE OF PROTECTING THE SAME AND THE RIGHTS OF THE PUBLIC THEREIN, AND SUCH PROVISIONS SHOULD BE PUT INTO EFFECT WITHOUT DELAY, AN EMERGENCY IS HEREBY DECLARED TO EXIST IN THE INTEREST OF THE PUBLIC PEACE, HEALTH AND SAFETY OF THE CITY OF BROOKINGS AND THE INHABITANTS THEREOF, AND THIS ORDINANCE MAY BE INTRODUCED AND PLACED UPON ALL OF ITS READINGS AT ANY ONE MEETING OF THE COUNCIL AND SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE BY THE COUNCIL AND APPROVAL BY THE MAYOR.

ADOPTED BY THE COUNCIL OF THE CITY OF BROOKINGS, OREGON,

this 13th day of April, 1965.

SUBMITTED to and approved by the Mayor of the City
of Brookings, Oregon, this 13th day of April, 1965.

Bruce J. Manley
Mayor

ATTEST:

James H. Mann
City Recorder