

ORDINANCE NO. 588

AN ORDINANCE REGULATING STREET EXCAVATIONS; REQUIRING A BOND AND PERMIT; IMPOSING REQUIREMENTS FOR THE PROTECTION OF THE PUBLIC; REGULATING THE BACK FILLING AND RESURFACING; PROVIDING PENALTIES FOR VIOLATIONS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE CITY OF CANBY 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 any hole or make any excavation in or upon any street or alley of the City of Canby; 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 written consent and permission for any such activity.

Section 2: The City Administrator of the City of Canby is hereby designated and appointed as the authorized official referred to in Section 1, who 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 Canby, for any cause or purpose whatsoever, shall make written application to the City of Canby, on forms provided by the City Administrator for permission and consent 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. The City Administrator, prior to granting any permit, shall establish the maximum time during which the permit shall be valid. The permittee shall complete all work of cutting, excavating, backfilling, and resurfacing within such maximum time limit. In setting said time limit, the City Administrator shall allow a reasonable time for completion under the circumstances then found to exist. The maximum time shall not exceed two (2) calendar weeks, unless special conditions exist which would not ordinarily exist on other projects of the same type.

Section 4: Any person, firm, or corporation making an application for a street cut shall, at the time and place of filing of such application and before a permit is issued, file with the City Recorder a bond executed by a surety company

authorized to transact surety business in this state, or by one or more sufficient personal sureties approved by the City Administrator. A personal surety must be a resident of this state. The bond shall be for the security and benefit of the City of Canby and shall be conditioned upon the applicant faithfully performing the street cut work in a careful, good and workman like manner to the satisfaction of the Superintendent of Public Works and within the time limit as prescribed by the permit. The amount of the bond shall be set by the City Administrator, but in no event shall it be less than \$1,000.00. In setting the amount of the bond the City Administrator shall consider the nature and extent of the work to be done, the location of the street, usual traffic, kind and use of adjoining property, and probable costs to the city for replacement and restoration.

Section 5: All portions of a street cut which lie within the curblines of the street or other actual traveled portion of the street as designated by the City Administrator shall be backfilled according to standard public works specifications. On streets having asphaltic paving 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 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, in which case the sidewalk, where cut, shall be replaced with concrete.

On graveled and surfaced streets, and on the shoulders of paved streets, the permittee shall place a minimum of eight 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. All backfilling and resurfacing shall be inspected and approved by the Superintendent of Public Works.

Section 6: All bonds filed by applicants shall be retained by the City until the City Administrator gives approval of the replacement. The City Administrator shall, within 45 days of the completion date stated on the permit, or any extension thereof if an extension is granted, either approve or reject the replacement made by the permittee. If the replacement is approved, the bond shall be cancelled. No bond shall be cancelled until the City Administrator 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 in effect. If the permittee fails to make the necessary corrections, his bond will be forfeited to the City to apply on its costs, and the City of Canby will proceed to make the necessary correction either by contract or City construction method, or a combination of both. In either case, the permittee shall be responsible for paying the City's costs of making or having the corrections made, including engineering and any legal publication costs.

Section 7: 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 8: 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. The permittee shall be responsible to furnish any flagmen or construction signs in conformance with State and local requirements.

Section 9: After an excavation is commenced, the permittee shall prosecute all work covered by the excavation permit with diligence and expediency, and shall promptly complete such work and restore the street to its original condition, or as near as possible.

Section 10: For a period of twelve (12) 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 and

not withstanding the fact that the work may have previously been approved and the bond cancelled.

Section 11: 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 12 months from the completion of the work.

Section 12: Should the person who opens a street under the authority of a permit granted under 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 from the permittee the City's costs, including a reasonable attorney's fee and court costs incurred in any suit or action. Notices given to any permittee shall also be given to the surety on his bond unless it was previously cancelled by the City Administrator.

Section 13: It shall be unlawful for any person owning, 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, pipeline, ditch, flume, or other structure to flow, waste, or seep into any street or alley of the City of Canby in such manner as to damage or injure such street or alley, or as to interfere with traffic thereon.

Section 14: 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 County Jail for a period of not exceeding six months, or by both such fine and imprisonment.

Section 15: All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Passed on first reading at a regular meeting of the Canby City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 1975; ordered posted for a period of two (2) full calendar weeks as required by the Canby City Charter; and to come up for final reading and action of the Canby City Council at a regular meeting thereof to be held on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 1975, at the hour of 8:00 p.m. at the Canby City Hall.

ATTEST:

Paul N. Roth  
PAUL N. ROTH - Mayor

Harold A. Wyman  
HAROLD A. WYMAN - Acting City Recorder

Passed on final reading at a regular meeting of the Canby City Council held on the 16 day of June, 1975 by the following votes: Yeas 5. Nays 0.

ATTEST:

Paul N. Roth  
PAUL N. ROTH - Mayor

Harold A. Wyman  
HAROLD A. WYMAN - Acting City Recorder