

## ORDINANCE NO. 1054

**AN ORDINANCE AMENDING TITLE 12 OF THE CANBY MUNICIPAL CODE BY ADDING A NEW CHAPTER, 12.20, ENCROACHMENT PERMITS; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Canby finds it would be beneficial to the City to require permits for encroachments within public rights of way, easements and on public property; now therefore,

### **THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. Title 12 of the Canby Municipal Code is amended by adding a new Chapter, 12.20, entitled "Encroachment Permits" to read as follows:

12.20.010. Encroachments within public rights of way, easements and on public property.

#### **1. Permits Required for Encroachment.**

A). It shall be unlawful for any person to erect or cause to be erected any structure or to place or maintain any vegetation and/or landscaping materials in public rights of way, easements or on public property without first having obtained a revocable permit from the City authorizing such action.

#### **2. Application and Fee Required.**

A). Any person desiring to locate or maintain an encroachment within any public right of way, easement or public property shall submit an application to the Community Development Director (hereinafter referred to as "Director"). The application shall include a description of the proposed encroachment, a scale drawing describing the nature and extent of the encroachment and its relationship to adjoining properties. If the applicant is not the owner of the property, the owner of the property shall also sign the application as a co-applicant. The Director may require an actual survey to determine the exact location of any public or private improvements or significant vegetation.

b). A fee in the amount of \$50 shall be paid at the time of the application.

This fee may be changed by resolution of the City Council as needed.

12.20.020. Application and Standards of Approval.

1. Review of Application/Standards of Approval.

a). The Director shall review the application for encroachment permit to determine its compliance with the following standards:

1. The encroachment complies with all applicable City Codes with regard to structural safety, traffic, sanitation and fire safety requirements.
2. No adverse impact on adjoining properties.
3. No interference with use of the public property for roadway, walkway, existing or proposed utilities and other authorized uses.
4. The encroachment will be maintained in good order.

12.20.030. Recording of Permits.

Approved encroachment permits shall be recorded against the title of the benefitting property and the costs of such recording shall be paid by the applicant.

12.20.040. Revocation of Permit.

All right of way, easement or public property encroachment permits shall be revocable by the City at any time such revocation would be in the public interest. No grant of any permit, expenditure of money in reliance thereon, or lapse of time shall give the permittee any right to the continued existence of an encroachment or to any damages or claims against the City arising from a revocation.

12.20.050. Removal of Encroachment.

1. Upon revocation, the permittee or any successor permittee, shall at the permittee's own cost, remove the permitted encroachment within thirty (30) days after written notice has been provided by the City, unless a shorter period is specified in the notice of revocation due to an emergency situation.

2. If the permittee does not remove the encroachment and return the right of way, easement or public property area to a condition satisfactory to the Director, the City may do so and the costs of returning the right of way, easement or public property to a satisfactory condition, shall be imposed as a lien upon the property on the City Lien Docket.

12.20.060. Liability.

The permittee, and owner of the benefitted property if different than the permittee, shall be liable to indemnify and defend any claim or legal action brought against the City of Canby by reason of the existence of any approved right of way, easement or public property encroachment.

12.20.070. Penalty.

Any person found in violation of any provision of this chapter shall, upon conviction thereof, be subject to a fine up to \$500.00.

Section 2. Emergency Declared.

It being necessary for the health, safety and general welfare of the citizens of Canby, that this Police vehicle be put into use as soon as possible, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its enactment after final reading.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, August 16, 2000, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, September 6, 2000, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

Chaunee Seifried  
Chaunee Seifried  
City Recorder - Pro Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 6th day of September, 2000, by the following vote:

YEAS 5

NAYS 0

Scott Taylor  
Scott Taylor, Mayor

ATTEST:

Chaunee Seifried  
Chaunee Seifried, City Recorder - Pro Tem