

ORDINANCE NO. 1313


AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 12.08 REGARDING STREET EXCAVATIONS.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Sections 12.08.010 through 12.08.200 of Chapter 12.08 of the Canby Municipal Code, are hereby amended to read as set forth in Exhibit "A" to this Ordinance and incorporated as if fully set forth herein.

Section 2. These amendments shall apply only to Chapter 12.08 as set forth in the Canby Municipal Code. All other provisions of the Code shall continue in full force and effect.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, July 1, 2009, 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, July 15, 2009, commencing at the hour of 7:30 PM in the Council Meeting Chambers at 155 NW 2nd Avenue, Canby, Oregon.



Kimberly Scheafer, CMC
City Recorder

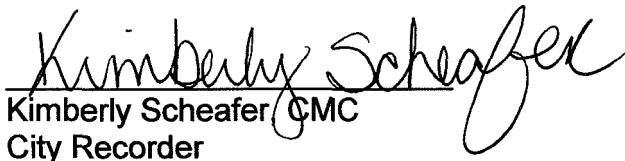
PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 15th day of July 2009, by the following vote:

YEAS 6 NAYS 0



Melody Thompson, Mayor

ATTEST:



Kimberly Scheafer, CMC
City Recorder

CHAPTER 12.08: STREET EXCAVATIONS

Section

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§ 12.08.010 Permission to make excavation.

No person, firm or corporation, nor any employee, agent or representative of any person, firm or corporation shall dig any hole or make any excavation in or upon any **rights-of-way**, street or alley of the city; change, alter or destroy the surface of any street or

alley; obstruct the reasonable use of pedestrian travel over and upon the **rights-of-way**, 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 whatsoever, without first having applied to the City Council and having first received from the City Council, or its duly appointed and authorized official, its written consent and permission for the activity.
(Ord. 1035, passed 11-3-1999)

§ 12.08.020 Authorized official.

The City Administrator is designated and appointed as the authorized official referred to in § 12.08.010 who is delegated with full power and authority to act for the City Council in the matter of the consent and permission.
(Ord. 1035, passed 11-3-1999)

§ 12.08.030 Permit applications.

Applications for permits to make excavations **within rights-of-way** or street cuts within the city shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

A. That the facilities will be constructed in accordance with all applicable codes, rules and regulations;

B. That the facilities will be constructed in accordance with a franchise agreement, if applicable;

C. The location and route of all facilities to be installed aboveground or on existing utility poles;

D. The location and route of all new facilities

on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;

E. The location of all of applicant’s existing underground utilities, conduits, ducts, pipes, mains, and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross-section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

F. The construction methods to be employed for protection of existing structures, fixtures and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.
(Ord. 1035, passed 11-3-1999)

§ 12.08.040 Applicant’s verification.

Unless exempted under § 12.08.045 of this code, all permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.
(Ord. 1035, passed 11-3-1999)

§ 12.08.045 Exemption from requirements.

A. The City Administrator or designee may exempt applications for permits from the requirements of §§ 12.08.040 and 12.08.120 through 12.08.160, when in his or her discretion:

1. The amount of work to be done in city streets does not warrant the imposition of these requirements; and
2. The public interest in the city’s streets and ways is adequately safeguarded.

B. The City Administrator may develop administrative regulations and policies to implement the provisions of this section.
(Ord. 1035, passed 11-3-1999)

§ 12.08.050 Construction schedule.

All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.
(Ord. 1035, passed 11-3-1999)

§ 12.08.060 Construction permit fee.

Unless otherwise provided in a franchise agreement, if applicable, prior to issuance of a construction permit, the applicant shall pay a permit fee of \$100, or as otherwise determined by resolution of the City Council. The fee shall be designed to defray the costs of city administration of the requirements of this chapter.
(Ord. 1035, passed 11-3-1999)

§ 12.08.070 Issuance of permit.

If satisfied that the applications, plans and documents submitted comply with all requirements of this code and the franchise agreement, if applicable, the city shall issue a permit authorizing construction of the facilities, subject to further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the city may deem necessary or appropriate.
(Ord. 1035, passed 11-3-1999)

§ 12.08.080 Notice of construction.

Except in the case of an emergency, the permittee shall notify the city not less than 2 working days in advance of any excavation or construction in the public rights-of-way.
(Ord. 1035, passed 11-3-1999)

§ 12.08.090 Compliance with permit.

All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and any further information as they may require to ensure compliance with the requirements.
(Ord. 1035, passed 11-3-1999)

§ 12.08.100 Noncomplying work.

All work which does not comply with the permit, the approved or corrected plans and specifications for the work or the requirements of this chapter shall be removed at the sole expense of the permittee. (Ord. 1035, passed 11-3-1999)

§ 12.08.110 Completion of construction.

The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within the city rights-of-way, including restoration, must be completed within 120 days of the date of issuance of the construction permit, unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as contemplated by § 12.08.050 above. (Ord. 1035, passed 11-3-1999)

§ 12.08.120 As-built drawings.

If requested by the city, the permittee shall furnish the city with 2 complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all facilities constructed pursuant to the permit. These plans shall be submitted to the City Engineer or designee within 60 days after completion of construction, in a format mutually acceptable to the permittee and the city. (Ord. 1035, passed 11-3-1999)

§ 12.08.130 Restoration of public rights-of-way and city property.

A. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, he or she shall, at his or her own expense, promptly remove any obstructions therefrom and restore the ways or property to good order and condition unless otherwise directed by the city and as determined by the City Engineer or designee.

B. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. This temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required

permanent restoration when the weather or other conditions no longer prevent the permanent restoration.

Any corresponding modification to the construction schedule shall be subject to approval by the city.

C. If the permittee fails to restore rights-of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding 30 days to restore the rights-of-way or property. If, after the notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause the restoration to be made at the expense of the permittee.

D. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of the work in or affecting the rights-of-way or property. A permittee shall also 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.

E. For a period of 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. Should the trench settle during this period, it is the responsibility of the permittee to bring the street back to proper grade, notwithstanding the fact the work may have previously been approved and the bond canceled.

(Ord. 1035, passed 11-3-1999)

§ 12.08.140 Filing of bond.

Any person, firm or corporation making an application for excavations or a street cut shall, at the time and place of filing of the 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 1 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 and shall be conditioned upon the applicant faithfully performing the excavation or street cut work in a careful, good and workmanlike 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. 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. The bond shall remain in force until 12 months after substantial completion of the work as determined by the city.

(Ord. 1035, passed 11-3-1999)

§ 12.08.150 Specifications for work.

All portions of an excavation or street 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 back-filled according to standard public works specifications. On streets having asphaltic paving and/or impregnated surfaces, a minimum of 4 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 surfaced streets and on the shoulders of paved and surface streets, the permittee shall place a minimum of 8 inches of compacted crushed rock having a gradation of 1 minus, which shall be rolled and/or tamped to the grade of the surrounding surfacing. If the full depth of the cut exceeds 8 inches, it shall be entirely filled with a granular material of 1 minus gradation and 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.

(Ord. 1035, passed 11-3-1999)

§ 12.08.160 Acceptance or rejection of replacement work.

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. If the replacement is rejected, the permittee shall be informed in writing of the rejection and must, within 30 days of the notification, correct the replacement to the standards in effect. If the permittee fails to make the necessary corrections, his or her bond will be forfeited to the city to apply on its costs, and the city 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 corrections made, including engineering and any legal publication costs.

(Ord. 1035, passed 11-3-1999)

§ 12.08.170 Responsibility for underground utilities.

The permittee shall inform himself or herself 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.

(Ord. 1035, passed 11-3-1999)

§ 12.08.180 Claims for defective work.

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.

(Ord. 1035, passed 11-3-1999)

§ 12.08.190 Water seepage.

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 the water main,

§ 12.08.190

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pipeline, ditch, flume or other structure to flow, waste or seep into any street or alley of the city in a manner as to damage or injure the street or alley, or as to interfere with traffic thereon.

(Ord. 1035, passed 11-3-1999)

§ 12.08.200 Penalty.

Any person violating the provisions of this chapter, upon conviction, shall be punished by a fine not to exceed \$500.

(Ord. 1035, passed 11-3-1999)