

ORDINANCE NO. 693

AN ORDINANCE ADOPTING CHAPTER 5.20, FRANCHISE REQUIREMENTS OF THE TROUTDALE MUNICIPAL CODE, REGULATING THE USE OF PUBLIC RIGHTS-OF-WAY IN THE CITY, AND REPEALING CHAPTER 5.16 OF THE TROUTDALE MUNICIPAL CODE

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. There currently are several non-city utilities located in, on, over or under public rights-of-way in the City. The owners of these non-city utilities are using public rights-of-way in accordance with existing franchises.
2. New technology and competition is fostering intensive use and occupancy of public rights-of-way by multiple users. Intensive use and occupancy requires coordination and management to ensure orderly planning, entry, construction, repair, and maintenance of public rights-of-way, as well as mechanisms to protect the public health, safety, and welfare and assure reliable delivery of city services.
3. The City of Troutdale has the authority under federal and state law to regulate the use and occupancy of public rights-of-way within the city; to grant access and use upon certain terms and conditions; and to obtain compensation for use of public rights-of-way.
4. Consistent with this authority, the council desires to adopt a specific requirement in the Municipal Code that requires all non-city users of public rights-of-way to obtain a franchise from the city before using public rights-of-way in the city.
5. Chapter 5.16, Cable Communications, of the Troutdale Municipal Code, was enacted in May, 1980, before the Mt. Hood Cable Regulatory Commission (MHCRC) was created and before the city entered into intergovernmental agreements with MHCRC regarding franchises. Given MHCRC's role in administering cable franchises in the city, Chapter 5.16 is no longer necessary and should be repealed.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. Title 5 Business Licenses and Regulations, of the Troutdale Municipal Code is amended by adding the following Chapter 5.20:

Chapter 5.20 Franchise Requirements

Sections:

5.20.010	Title
5.20.020	Purpose
5.20.030	Definitions
5.20.040	Franchise Requirement
5.20.050	Terms and Conditions
5.20.060	Use of Funds
5.20.070	Delegation of Authority

5.20.010 Title

This chapter shall be entitled "Franchise Requirements."

5.20.020 Purpose

Franchises are required in order to establish and ensure a stable, predictable non-discriminatory basis for long-term relations with right-of-way users, and to ensure efficient and safe use of public rights-of-way in the city.

5.20.030 Definitions

The terms used in this chapter have the following meanings:

- A. "Facilities" means structures, equipment, property, poles, pipes, mains, conduits, ducts, pedestals, wires, cable, electronic equipment or similar materials.
- B. "Person" means any individual, firm, association, partnership, corporation, agency or organization of any kind, excluding the City of Troutdale.
- C. "Right-of-way" means any property, property interest, bridges, trestles or other structures dedicated to or otherwise acquired for public transportation purposes.
- D. "User" means any person who owns facilities in the right-of-way that are used to distribute, transmit or collect sewer, water, gas, petroleum products, steam, electricity, telecommunications or other public utility services.

5.20.040 Franchise Requirement

No person shall install, construct, reconstruct, repair, alter or maintain facilities for the distribution, transmission or collection of sewer, water, gas, petroleum products, steam, electricity, telecommunications or other service in, on, over, through or under public rights-of-way in the city without first obtaining a franchise or equivalent right-of-way use agreement from the city. The franchise that is required under this section is required in addition to other permits that are required in other sections of the Municipal Code or Troutdale Development Code.

5.20.050 Terms and Conditions

- A. The franchise required under this chapter may contain such terms and conditions as are necessary to protect the public health and safety and to promote the efficient and effective use of the public right-of-way.
- B. The franchise may specify materials to be used, construction methods to be employed, location of items within the right-of-way, and other measures necessary to achieve the purpose of this chapter.
- C. The franchise may require the payment of one-time charges, recurring charges, and provision of materials and services by the user in return for the use of the right-of-way.

5.20.060 Use of Funds

Funds received by the city pursuant to this chapter shall be deposited in the General Fund.

5.20.070 Delegation of Authority

Nothing in this chapter limits the city's authority to enter into intergovernmental agreements or otherwise delegate its authority to negotiate, administer or enforce the terms of franchises.

Section 2. Chapter 5.16 (Cable Communications) of the Troutdale Municipal Code is hereby repealed.

YEAS: 6
NAYS: 0
ABSTAINED: 0


Paul A. Thalhofer, Mayor

Dated: 8-23, 2000


Debbie Stickney, City Recorder

Adopted: 8-22, 2000