

ORDINANCE NO. 1150-A

INTRODUCED BY COMMISSIONER:

AN ORDINANCE REGARDING REGULATORY CONTROL OF CITY OF
WARRENTON RIGHTS OF WAY

The City of Warrenton ordains as follows:

Section 1. Definitions.

For the purpose of this chapter, the following mean:

“**Person**” means individual, corporation, association, firm, partnership, joint stock company, and similar entities.

“**Public rights-of-way**” mean and include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas.

“**Within the city**” means territory over which the city now has or acquires jurisdiction for the exercise of its powers.

Section 2. Jurisdiction. The city has jurisdiction and exercises regulatory control over all public rights-of-way within the city under the authority of the city charter and state law.

Section 3. Scope of regulatory control. The city has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory control over each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription reservation, condemnation, annexation, foreclosure or other means.

Section 4. City Permit Required. No person shall do work affecting the public right-of-way without first obtaining a permit from the Public works Department. Work affecting the right-of-way includes but is not limited to, construction, reconstruction, grading, oiling, repair, opening or excavation of a sidewalk, street, curb, driveway, culvert or ditch in a public right-of-way, but does not include the construction of improvements performed under city contract.

Section 5. Permit Fee. A permit fee shall be established by Commission Resolution.

Section 6. Security. The applicant shall provide security for the proposed work before the issuance of a permit. Security shall be in the form of cash, certified check or bond in an amount sufficient to assure satisfactory completion of the work. The amount of

security shall be determined by the Public Works Director. The Public Works Director shall use standard construction estimating techniques to determine the appropriate amount of security. An appeal process is provided under Section 14 of this ordinance. The security provided by the applicant shall be held by the City until the work area is restored to the satisfaction of the Public Works Director.

Section 7. Permit Application Requirements. Plans and specifications shall be submitted with the City's official permit application form, which form is attached hereto as exhibit A. The plans and specifications shall be in a form and with detail as required by the Public Works Director. Specifications shall be the most current revision of the City of Warrenton Public Works specifications, American Public Works Association specifications, American Water Works Association specifications or Oregon Department of Transportation Construction specifications. Where a conflict exists between the above named specifications, the Public Works Director shall determine which of the above shall be used. Projects which involve new construction or involve major reconstruction shall be submitted at least two weeks prior to the date on which work is expected to commence. Projects involving all routine repairs of existing facilities shall require 24 hours prior notice.

Section 8. Eligible Applicants. This permit is to be issued only to a duly licensed bonded contractor holding a current City of Warrenton business license with proof of current liability and workers compensation insurance except as provided herein. A property owner who is not a licensed contractor may receive a permit under the following conditions:

- A. The total value of the work is not to exceed \$1,000.
- B. No excavation shall exceed one foot in depth.
- C. Excavations under this section shall be in that area between the back of the curb and the right of way/property line boundary.
- D. No existing improvements other than sidewalks and/or driveway approaches are to be disturbed under this section.
- E. A security deposit of \$1,200 in the form of cash or certified check shall be required under the restoration of the work area at the discretion of the Public Works Director. In the event that restoration is not satisfactory, the deposit shall be retained by the City to defray the cost of restoration by the Public Works Department.

Section 9. Excavations in Violation. Any person, company, or franchised utility which damages City owned utilities while in violation of this ordinance shall be subject to double the cost of repair of the damaged utility. The City of Warrenton Public Works Director shall have the option to order the repair to be done in house or hire an outside contractor. Request for locations of existing utilities are to be made 48 hours in advance of commencement of the work. The utility locate requests are to be made to Dig Safely Oregon, 1-800-332-2344.

Section 10. Permit Conditions. Permit conditions including, but not limited to, the following may be included as a requirement for permit issuance:

- A. Physical protection of all excavations (barricades, etc.).
- B. Adequate Traffic control as specified by the Oregon Department of Transportation.
- C. Time limits for restoration of the work area.
- D. Work to be conducted only during specified hours which shall be restricted to normal working hours. Normal working hours is defined as 7:00 a.m. to 5:00 p.m.
- E. Pavement, curb and gutter restoration to be accomplished by the applicant to the satisfaction of the Public Works Director. Inadequate restoration shall be corrected by the applicant within ten days of notification. Restoration which is not satisfactorily completed within the time limits set forth shall be corrected by the Public Works Department and the cost plus 10% administration fee shall be charged against the applicant's bond or security deposit.
- F. All cuts in asphalt paving, Portland cement paving, concrete curbs, gutters and sidewalks shall be saw cuts at least three inches deep unless excepted as a condition of the permit.

Section 11. Emergency Provisions. Under the following emergency conditions requirements for notification are modified as follows:

In the event of the following defined emergency conditions, notice within 24 hours after the event is required. All other provisions of this ordinance remain in effect.

- A. Declared emergency.
- B. Emergency involving facilities of a franchised utility (upon the franchise holder's authority).
- C. Fire Department/Ambulance Division emergency.

Section 12. Waiver of Requirements. Permit requirements may be waived by the public Works Director for the following reasons:

- A. Activities with the public right-of-way which do not affect or disturb improvements owned by the city or its franchisees.
- B. Fees are waived for franchisees where franchise agreements prohibit the fees, all other provisions of this ordinance shall remain in effect.
- C. Work in new developments is exempt until such time as the improvements are accepted by the City Commission for maintenance by the city. Contractors are not released from the requirements of this chapter when working on or connecting to existing improvements.

Section 13. Acceptance of public rights-of-way into City Maintenance Program.

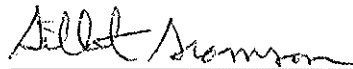
For a right-of-way to be accepted into the city's public right-of-way maintenance program, the City Commission shall put forth a written order accepting such public right-of-way, whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure, or other means.

Section 14. Denial of Permit and Appeal. The Public Works Director may deny issuance of a public works permit for cause. Sufficient cause shall be failure to comply with past permit requirements or inability to meet requirements for issuance of a permit. In the event of a dispute between the applicant and the Public Works Director, the applicant may appeal to the City Manager for modification or release from permit requirements of this chapter.

Section 15. Violation - Penalty. Any person who violates this ordinance commits a violation punishable by a fine of not more than \$500.00.

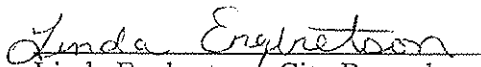
ADOPTED by the City Commission of the City of Warrenton this 28th day of September, 2010.

APPROVED



Gilbert Gramson, Mayor

ATTEST



Linda Engbretson, City Recorder

First Reading:

Second Reading: