

ORDINANCE NO. 71-0-221

AN ORDINANCE REGULATING STREET EXCAVATIONS; REQUIRING A PERMIT THEREFOR; IMPOSING REQUIREMENTS FOR THE PROTECTION OF THE PUBLIC IN CONNECTION THEREWITH; REGULATING THE BACK FILLING AND RESURFACING; PROVIDING PENALTIES FOR THE VIOLATION HEREOF; REGULATING THE USE OF STREETS AND ALLEYS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

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The city of Brookings ordains as follows:

Section 1. Excavation permit required. No person, firm, or corporation, nor any employee, agent, or representative of any such person, firm, or corporation shall dig a hole or holes, or make an excavation or excavations in or upon any street or alley of the city of Brookings; 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 consent and permission therefor and thereto.

Section 2. City Superintendent of Streets designated authorized official.
The city superintendent of street of the city of Brookings is hereby named and designated as said duly appointed and authorized official, as such official is named and referred to in Section 1; and to such effect the said city superintendent of streets is hereby delegated with full power and authority to act for the city council in the matter of such consent and permission.

Section 3. Written application required. 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 Brookings, for any cause or purpose whatsoever, shall make written application to the city of Brookings, addressed to the city superintendent of streets of Brookings, applying in said application for the permission and consent of the city of Brookings so 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. Said application shall be in substantially the form set forth in Exhibit A attached to this ordinance and hereby made a part hereof as though set out in full and at length herein. The street superintendent, 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 street superintendent shall allow a reasonable time for completion under the circumstances then found to exist.

Section 4. Deposit required with application. Any person, firm, or corporation making such an application for a street cut shall, at the time and place of filing of such application and before a permit shall [be issued], deposit with the city recorder a cash deposit or cashier's check drawn on or against an Oregon banking institution and payable to the city of Brookings; or order, in a sum not less than \$250.00 as a guarantee and pledge of said city of Brookings by said applicant against any and all loss, damage, or expense that may thereafter arise or be caused by said applicant, its agents, or employees, in the accomplishment of the purpose or purposes contained in said application as made by said applicant, and to insure the performance of the terms and conditions of said permit and this ordinance. The money so paid hereunder shall be deposited in the treasury of the city of Brookings and shall be held until the city council, or its authorized agent, shall authorize the return of the money, or some part thereof, to the applicant so paying the said money.

Section 5. Additional deposits required. A minimum deposit of \$250.00 shall be required with all applications. In addition to the minimum \$250.00 deposit the following additional sums will be required to be deposited with the application and before any permit is issued:

<u>Trench Width</u>	<u>Deposit Required per Lineal Foot of Cut Lying Within the Street Right-of Way</u>
1.5 feet or more, but less than 2.0 feet	\$2.00 per foot
2.0 feet or more, but less than 2.5 feet	\$2.50 per foot
2.5 feet or more, but less than 3.0 feet	\$3.00 per foot
3.0 feet	\$3.50 per foot

For all trench widths exceeding 3.0 feet in width and exceeding 300 feet in length: before the street cut permit can be issued, it shall be first approved by the mayor and city council in session. The above may be waived in case of emergency which endangers the public health, safety, or sanitation.

Section 6. Compaction requirements. All portions of the cut which lie within the curblines of the street or other actual traveled portion of the street as designated by the street superintendent shall be backfilled with wetted sand and shall be tamped to achieve uniform compaction. On streets having asphaltic paved and/or impregnated surfaces, a minimum of four inches or compacted hot-mix asphaltic concrete shall be placed in the upper portions of the pavement cut and be 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, the sidewalk, where cut, shall be replaced with concrete.

On graveled and unsurfaced streets, and on the shoulders of paved streets, the permittee shall place a minimum of six inches or compacted crushed rock having a graduation of 3/4 minus, which shall be 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, the sidewalk, where cut, shall be replaced with concrete.

Section 7. Requirements prior to deposit being returned to permittee. All deposits made by applicants shall be retained by the city until the street superintendent gives approval of the replacement. The street superintendent shall, within 45 days of the completion date stated on the permit, and any extension thereof if an extension be granted, either approve or reject the replacement made by the permittee. If the replacement is approved, the money on deposit shall be returned to the permittee. No deposit shall be returned until the street superintendent 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 of this ordinance as applied by the street superintendent. If the permittee fails to make the necessary corrections, his deposit will be retained by the city and the city of Brookings will proceed to make the necessary correction.

Section 8. Permittee's responsibilities. 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 an public or private property by reason of the breaking of any water pipes, sewers, gas pipes, electric conduits, or other utility facilities.

Section 9. Requirements for traffic conditions. 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.

Section 10. Expedition of excavation work. After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be so as not to obstruct the street or travel thereon more than is reasonably necessary.

Section 11. Permittee responsible for condition of fill and replacement for nine months. For a period of nine 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.

Section 12. Claims against permittee. 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 13. Recovery of costs from permittee due to violations. Should the person who opens a street under the authority granted by 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 the cost thereof from the permittee.

Section 14. Permit restrictions. No new excavation permits will be issued to any person whose work has necessitated city action under the provisions of Section 13 of this ordinance.

Section 15. Violations. 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, pipe line, ditch, flume, or other structure to flow, waste, or seep into any street or alley of the city of Brookings in such manner as to damage or injure such street or alley, or as to interfere with traffic thereon.

Section 16. Penalties. 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 city jail for a period of not to exceed six months, or by both.

Section 17. Repeal of ordinances or parts of ordinances in conflict. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Effective February 9, 1971