

ORDINANCE NUMBER 2-1997

**AN ORDINANCE REGULATING CERTAIN ACTIVITIES WITHIN CITY RIGHTS-OF-WAY INCLUDING, BUT NOT LIMITED TO: EXCAVATION, TREE MAINTENANCE, OBSTRUCTIONS AND ENCROACHMENTS; ALL AMENDING ORDINANCES AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH. THIS ORDINANCE SHALL BE KNOWN AS THE RIGHT-OF-WAY ORDINANCE.**

**The City of Cove ordains as follows:**

**SECTION 1.** As used herein the word person shall be applicable to any individual, association, firm or corporation.

**SECTION 2. Activities Requiring Permit.** No person shall make any excavation in a street, alley, or planting strip, nor perform any tree maintenance or removal, without first providing the city Notice of Intent to perform work at least 2 working days prior thereto, and obtaining a permit, if required.

**SECTION 3. Permit Requirements.** Persons desiring to make excavations in the city streets or conduct tree maintenance within the city right-of-way which requires permit, shall make application for a permit therefor upon a form to be provided by the city. Excavation applicants shall include a plan drawing of the activity which will specify the location and depth of the proposed excavation, type of surface, and type of work to be performed. The permit shall also contain an agreement executed by the applicant, for permanent repairs to the street, alley, or planting strip. Such permanent repairs are to be made within a reasonable time. The permittee shall furnish a bond in the amount to be determined by a resolution of the city council in favor of the City of Cove, and for the benefit of the city or any person whose property is injured by failure on the part of the applicant to perform his agreement. Applicants for a right-of-way permit shall show possession of a valid "Residential Contractor's License" from the state of Oregon, and shall file evidence of possession of a commercial general liability and a business automobile liability insurance policy from a company acceptable to the city, and authorized to do business in the state of Oregon. The limits of the insurance and permit fees shall be set by resolution of the city council. Certificates shall be furnished evidencing such insurance and bearing an endorsement naming the city as additional insured. The insurance shall be in full force and effect during period covered by the permit.

Work performed by city forces, or in connection with any city public works contract will be exempt from obtaining a permit. All work will be performed as provided herein, or as directed by the city engineer.

**SECTION 4. Permit Fees and Charges.** The base permit fees shall be set by a resolution of the city council. For excavations, this fee shall typically cover all the costs for a standard underground utility service installation. The permittee shall be responsible for city inspection and review costs on more complex projects. In lieu of the city inspection, and with prior city approval, the permittee may secure the services of a licensed civil engineer who will oversee the installation and certify to the city that the installation conforms to city standards.

**SECTION 5. Utilities Under Franchise to City.** Permit fees for utility companies which pay a franchise fee to the city are waived. Work within the right-of-way will still require a permit and approvals. All work performed in conjunction with any utility function will be the responsibility of that utility for restoration and/or repairs.

Further, the City of Cove reserves the right to collect the actual costs of review and inspection required on complex projects. In lieu of these costs, the permittee may secure the services of a licensed civil engineer who will oversee the installation and certify to the city that the installation conforms to city standards.

**SECTION 6. Street or Alley Restoration.** The permittee shall restore or replace any repairs in which defects appear during a period of one (1) year subsequent to the date of completion of such repairs or re-repairs.

Backfilling and compaction of any excavation shall be according to city standards and to the satisfaction of the city engineer. Compaction testing when required by the engineer shall be at the expense of the permittee.

Repairs to the street, sidewalk, planting strip, or alleys shall be done in accordance with city standards and to the satisfaction of the city engineer. The permittee shall place and maintain temporary surfacing in all pavement cuts within a driving lane until permanent repairs are in place; and all pavement cuts made after September 15, within any area of a paved street until it is permanently repaired. Temporary repairs shall be made upon satisfactory completion of the excavation and backfill, and prior to opening the street or alley to traffic. The type of temporary surfacing shall be approved by the city engineer.

**SECTION 7. City Engineer Authority.** If, in the opinion of the city engineer by reason of weather conditions or the season of the year, or for any other reason, the proposed excavation will unusually damage the city streets or seriously inconvenience the public in the use of the streets, the city engineer shall have the right to delay issuance of the permit herein provided for, until the probability of such damage or inconvenience has passed, and in such event the city engineer shall not issue such permit to the applicant until such time.

**SECTION 8. Street closures, Detours and Traffic Controls.** In the event that work within the public right-of-way requires the closure of any part of said right-of-way; or detouring of pedestrians or motorists, the city engineer will require the permittee to provide approved signs and barricades, or any other traffic controls required, in accordance with the latest edition Manual on Uniform Traffic Control Devices to provide protection for workers, pedestrians, and motorists, or when a clear and present danger exists. The permittee shall notify all school busing providers, fire, police, and ambulance services prior to closing and immediately

after opening of any street or alley. The permittee shall be responsible for coordinating any access with affected residents or businesses, prior to any closure.

**SECTION 9. Obstruction and Encroachments.** After the effective date of this ordinance, no person shall erect or place any obstructing or allow any encroachment on, over, or within, any right-of-way without first obtaining permission from the city. An agreement executed by the recorded owner of the subject property which will prescribe the conditions under which the obstruction, or encroachment may be allowed.

The city reserves the right to consider each request on a case by case basis and grant permission only where no adverse impact exists. Nothing contained herein is intended to, nor shall it grant, any grandfather rights to any obstruction or encroachment on, over, or within the city right-of-way.

**SECTION 10. Penalties.** Any person violating any provision of this ordinance shall be, upon conviction or plea of guilty, subject to a fine of not to exceed Five Hundred and 00/100 Dollars (\$500.00).

**SECTION 11.** Any repairs or maintenance of a project that is not performed in a timely manner within the one (1) year period will be performed by the city and charged tot he homeowner.

Passed by the council and approved by the mayor Sept 2, 1997

Richard H. T. [Signature]

\_\_\_\_\_