

ORDINANCE NO. 1115

AN ORDINANCE TO REGULATE THE MAKING OF CUTS IN STREETS; TO REQUIRE APPLICATIONS, PERMITS, SECURITY THEREFOR; AND TO PRESCRIBE PENALTIES FOR VIOLATION THEREOF; AND REPEALING ORDINANCE No. 102.

The City of Hood River does ordain as follows:

Section 1. Definition of Terms. The following words when used in this Ordinance shall have the meaning respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning.

(a) Person. A natural person, firm, co-partnership, association, or corporation.

(b) Street. A way or place open as a matter of right to the use of the public for vehicular traffic and lying between curb lines.

(c) Tunnel. An excavation requiring the removal of dirt or like material and shall not include driving or forcing of pipe through the ground.

(d) Engineer. The city engineer.

Section 2. It is unlawful for any person to cut, break, dig up, damage in any manner, undermine or tunnel under any public street or alley without first making an application to the engineer, depositing of securities, and obtaining a permit. Applications for permits shall be in the form prescribed by the engineer. Permits shall be issued on an annual basis or for a limited time and shall specify the extent of the authority granted by the permit.

Section 3. Application for Permit.

(1) In the event of the application for permit for a limited time and for a specific cut or break in a street or alley, the applicant shall specify his name and address, the date of application, the name of the street or alley to be cut or tunneled under; the nature of the street surface or of pavement involved; the purpose of the work; the size and nature of the cut or excavation; and the number of days required

to complete the work. The applicant shall file an agreement (1) to deposit such securities as required by the engineer, to comply with the provisions of this Ordinance and with the specifications of the engineer pertaining to the conduct of the work, (2) to save the City and its employees harmless against any injury or damage which may result from the actions of the applicant, and (3) to file a report of the work done within forty-eight hours of its completion. An application for each permit to be issued for a limited time and for a specific cut or break in the street or alley shall be accompanied by a permit fee in an amount the council shall specify by resolution.

(2) An application for an annual permit shall be in a form as prescribed by the engineer and shall specify the name and address of the applicant and the date of the application. The applicant shall file an agreement (1) to deposit such security as required by the engineer, to comply with the provisions of this ordinance, (2) to save the city and its employees harmless against any injury or damage as a result of the actions of the applicant, and (3) to file a report of all work done under the permit within 10 days after the initial cut or break in the alley or street has been made. Application for an annual permit shall be accompanied by a permit fee in an amount the council shall specify by resolution.

Section 4. Security. Before the issuance of any permit, the engineer shall require the applicant to file with him as security either:

(1) If an annual permit is requested, a surety bond in the amount of \$1,000.00. If an application for a permit for one particular cut or break in an alley or street is requested, a surety bond in the amount fixed by the engineer but not to exceed \$500.00. The bond shall be left on deposit with the city for a period of one year after date of completion of the work. The bonds in either of said cases to be conditioned that the applicant will, immediately upon the completion of the work,

remove all surplus earth, rubbish, or other materials, replace the pavement cut or undermine in a condition as good as or better than it was before, and keep the same in good repair, at his own expense, for a period of time to be designated by the city engineer, but not to exceed one (1) year from the completion of said work; or

(2) In lieu of a surety bond the applicant may file as security cash or certified check in an amount equal to twice the estimate of replacement value of pavement to be cut, together with the costs of re-excavation and refilling with proper materials, if necessary, as determined by the engineer, to be held and returned subject to the same conditions as set forth in the case of surety bonds.

(3) In the case of unimproved streets, no security shall be required, unless, in the opinion of the engineer, such security is necessary for the protection of the public interest.

Section 5. Permits. If the engineer is satisfied that the excavation, cut or tunnel is feasible and proper, that the application is made in due form, that adequate security has been filed as required by provision of this ordinance and upon payment of the permit fee, the engineer shall issue a permit which shall designate the name and address of the person to whom the permit is granted; the date of issuance of the permit; the street or streets to be cut or tunneled under; the estimated time in which the work is to be completed; and such other restrictions as may be deemed necessary or proper by the engineer for the safety of the public or protection of public interests.

Section 6. Conduct of Work. All work under such permits shall be done in conformity with the provisions of this ordinance, the terms of the application and permit, and in a manner approved by the engineer. Upon completion of the excavation, cut or tunnel, all surplus earth, rubbish, or other materials shall be removed immediately and the street surface or pavement shall be replaced in as good as or in better condition than it was before.

Section 7. Adherence to and Exhibition of Permits. No work shall be undertaken other than that specified in the application and permit for a particular cut or excavation. Upon demand of the engineer, his assistants or any police officer, the permit shall be produced at the place where the work is in progress or shall be on display at the place of business of the person within the city. If a permit is not produced, the work shall be stopped until the permit is produced.

Section 8. Notice of Completion of Work. A permittee shall, on or before the 10th day of the month following the month in which the cut or excavation is completed, report the completion to the engineer and report the exact location of the cut or excavation.

Section 9. Barricades and Safety Measures. Whenever a person, under authority of this ordinance or otherwise, places obstructions in a street or alley or makes any excavation therein for any purpose, it shall be the duty of such person to keep the obstruction or excavation properly safeguarded by substantial barricades and display lighted red lanterns or other lights or flares from dusk until daylight in conformity with such regulations as may be specified by the engineer. Whenever, in the opinion of the engineer, the public safety is so seriously endangered by such cuts or excavations as to require constant supervision from dusk to daylight to insure that all barricades are in proper condition and location, all warning lights are burning, and all traffic is properly routed around such barricades, the person to whom the permit for work is granted shall be responsible for furnishing a night watchman for that purpose.

Section 10. Liability for Accidents. A person who places an obstruction in a street or alley or who makes an excavation therein under provision of this ordinance, shall be responsible to anyone for any injury by reason of the presence of such obstruction or excavation on the public highways when such obstructions or excavation is the sole

proximate cause of the injury and shall also be liable to the City of Hood River, in the event that the city shall be held responsible for any action or claims or otherwise arising out of the presence of such obstruction or excavation on said public highway.

Section 11. Repairs. A person to whom a permit is granted shall be personally responsible for the maintenance and repair of the street surface or pavement cut, dug up, damaged, tunneled under, undermined, under the provisions of said permits, in as good as or better condition than before such work was undertaken, at their own expense, and for such a period of time as required by the engineer, but not to exceed one (1) year.

Section 12. Option to City to Replace Pavement. Whenever, in the opinion of the council, it would be to the best interest of the city for the city itself to replace or repair the street surface or pavement cut, which may be damaged, tunneled under, or undermined under the provision of this Ordinance, such work shall be done by the city under the direction of the city engineer and the cost of said work shall be either charged to the person to whom the permit for said cut or excavation has been granted or deducted from security deposited by him with the city engineer.

Section 13. Application to City Employees. The provisions of this ordinance shall not be deemed to apply to the construction or maintenance of pavement by the city, by its employees, or by persons operating under contract with the city.

Section 14. Emergencies. In the event of an emergency effecting the public safety, a cut may be made in a street or alley providing that a report of such cut shall be made to the city engineer within 48 hours, and all provisions of this ordinance complied with as though making an application for an original permit.

Section 15. Penalty. Any person violating any of the provisions of this ordinance, upon conviction thereof, shall be punished by a fine not to exceed \$ 200, or by imprisonment in the city jail for a period not to exceed 60 days, or by both.

Section 16. Repeal. Ordinance No. 102, enacted December 1, 1905, relating to street cuts is repealed.

Passed by the council and approved by the Mayor this 16th day of January, 1961.

APPROVED: R.A. Neilson
Mayor

ATTEST:

B. G. Lusk
City Recorder