

ORDINANCE NO. 477

AN ORDINANCE REGULATING WORK WITHIN THE CITY OF MADRAS RIGHTS-OF-WAY, REGULATING EXCAVATIONS, IMPOSING REQUIREMENTS FOR THE PROTECTION OF THE PUBLIC IN CONNECTION THEREWITH, PROVIDING STANDARDS FOR CONSTRUCTION AND REPAIRS, PROVIDING PENALTIES FOR THE VIOLATION THEREOF AND DECLARING AN EMERGENCY.

The city of Madras, Oregon, ordains as follows:

Section 1. Definitions. Unless the context requires otherwise, the following mean:

(a) "City Standards" means standards adopted by the city of Madras which are, unless otherwise approved in writing by the public works director, the 1990 Standard Specifications for Public Works Construction Manual, published by the American Public Works Association, Oregon Chapter.

(b) "County" means Jefferson County, Oregon.

(c) "Franchised Utility" means any utility company paying a franchise fee to the city of Madras.

(d) "Paving" means asphaltic concrete, concrete, oil mat, or other hard surfacing.

(e) "Person" means any actual person, firm, corporation, or other legal entity.

(f) "Public Works Director" means the public works director for the city of Madras or the public works director's designee.

(g) "Right-of-way" means that portion of land dedicated to the public for access, utilities, streets, alleys, sidewalks, or any other public purposes. For the purpose of this ordinance, right-of-way shall also mean easement.

(h) "Sidewalk" means the part of the street right-of-way that is intended for the use of pedestrians, between the curb lines or the lateral lines of a roadway and the adjacent property line.

(i) "Street" means the portion of a right-of-way between curbs or shoulders designated or used for vehicle or pedestrian travel and shall include alleys and easements.

(j) "Utility" means any utility operating in the city of Madras including, but not limited to: cable television, electric power, natural gas, telephone, water, and sewer.

Section 2. Permits Required. At least forty-eight (48) hours prior to commencing any excavation within a right-of-way of the city of Madras, all persons must apply for and obtain a permit from the city. Permits shall state approximate time of beginning and end of work. The permit shall be accompanied by a map and cross-section, detailing the location of facilities in relation to the right-of-way and any affected sidewalk and/or road surface. Said permit must be approved in writing by the public works director before construction commences, and must include any relevant standards that may apply. The applicant must notify the Central Oregon Underground Utility Coordination Council, to obtain utility locates, forty-eight (48) hours prior to excavation. The person causing any damage to any sidewalk, street, or other facility within the right-of-way shall replace or repair said facility to the extent of the damage whether or not such person has obtained a permit. All work within city rights-of-way shall be to city standards.

Section 3. Exclusions. Deschutes Valley Water District and franchised utilities shall be exempt from permit requirements when conducting routine maintenance and emergency repairs to existing utilities within city right-of-ways. All such maintenance and repairs shall conform to applicable city standards.

Section 4. Street and Sidewalk Crossings Shall Be Bored. All utilities crossing under streets and sidewalks shall be bored, unless permission for open cut is granted by the public works director prior to the start of work.

Section 5. Street and Sidewalk Cuts. When a street or sidewalk cut is allowed, it shall be done to city standard, which shall include appropriate traffic control, pavement cutting, backfill, and repair.

Section 6. Applicant Responsibilities. For a period of one year following any work under this ordinance including patching paved surfaces, cuts and borings, applicant shall be responsible for the condition of said pavement patches, cuts, and borings, and during that time shall, upon request from the public works director, repair to the public works director's satisfaction any of the street surfaces which become settled, cracked, broken or otherwise faulty.

Section 7. Preservation of Existing Monuments. Existing survey monuments shall be preserved in accordance with ORS 209.150.

Section 8. County Roads Within City Limits. Where excavation or construction within the limits of the right-of-way of a county road is anticipated or performed within the city limits, all provisions of this ordinance shall apply and have precedence over county regulations.

Section 9. Penalties. Any violation or failure to comply with any provision of this ordinance shall be punishable upon conviction by a fine of not more than \$300. This penalty is in addition to, not in lieu of, any civil remedies available for non-compliance.

Section 10. Separate Violation. Each day that a violation of this ordinance continues shall constitute a separate violation.

Section 11. Permit Fees. Permit fees shall be as established from time to time by resolution of the common council of the city of Madras excepting that franchised utilities shall not be required to pay a permit fee.

Section 12. Severability Clause. If any provision, section, sentence, or phrase of this ordinance shall be, for any reason, adjudged or declared by a court of competent jurisdiction to be unconstitutional or invalid, such judgement or decision shall not affect the validity of the remaining portions of this ordinance.

Section 13. Appeal. Whenever a provision of this ordinance or action hereunder by the public works director shall be deemed excessive or unworkable, such provision or action may be appealed to the common council of the city of Madras by the affected person. Appeals will be heard de novo.

Section 14. Emergency Clause. In order to preserve the quality of the rights-of-way of the city of Madras and to protect the safety of the public, an emergency is declared to exist, and this ordinance shall take effect upon its passage.

Passed by the council and approved by the mayor September 5, 1990.