

file 1194  
Sometime in 1967 MODEL STREET OPENING ORDINANCE

Journal from minutes ORDINANCE NO. 1194  
11/1/67

AN ORDINANCE REGULATING THE OPENING AND EXCAVATING OF STREETS, ALLEYS, SIDEWALKS, AND OTHER PUBLIC PLACES; REQUIRING A PERMIT THEREFOR AND PAYMENT OF A FEE; IMPOSING REQUIREMENTS FOR THE PROTECTION OF LIFE AND PROPERTY IN CONNECTION WITH EXCAVATION WORK, INCLUDING TRAFFIC AND PEDESTRIAN SAFEGUARDS AND THE PROTECTION OF UTILITIES AND OTHER PROPERTY; REGULATING THE BACKFILLING AND RESURFACING OF EXCAVATIONS; PRESCRIBING SURETY BOND, AND PRESCRIBING PENALTIES FOR VIOLATION OF ITS PROVISIONS.

<sup>TOWN</sup> THE ~~CITY~~ COUNCIL OF THE <sup>TOWN</sup> CITY OF GIG HARBOR, WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1 - 1001. Short Title. This Ordinance shall be known and cited as the "Street Excavation Ordinance of the ~~CITY~~ of GIG HARBOR".

Section 1 - 1002. Definitions. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Applicant" is any person making written application to the administrative authority for an excavation permit hereunder.

(2) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.

(3) "Administrative Authority" is the <sup>TOWN</sup> ~~CITY~~ official designated by the <sup>TOWN</sup> ~~CITY~~ Council to issue permits and supervise excavation work as provided for in this Ordinance.

(4) "Permittee" is any person who has been granted and has in full force and effect an excavation permit issued hereunder.

(5) "Excavation" shall mean any opening in the surface of a street made in any manner whatsoever, except an opening into a lawful structure below the surface of a street, the top of which is flush with the adjoining surface and so constructed as to permit frequent opening without injury or damage to the street.

(6) "Street" shall mean any public street, way, place, alley, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the ~~CITY~~ and dedicated to public use.

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(7) "Substructure" shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or any other similar structure located below the surface of any street.

(8) "Facility" shall mean pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer, or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed, or maintained in, upon, along, across, under or over any street.

Section 1 - 1003. Excavation Permit. It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine, or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit, or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of any street, except as provided for in this Ordinance, unless such person shall first have obtained an excavation permit therefor from the Administrative Authority.

The obtaining of a permit prior to performance of work is not required when the excavation is necessary for the preservation of life or property, for the installation of service connections by a utility, for the location of trouble in conduits or pipes, or for making repairs; provided that the person making such excavation shall obtain a permit therefor within a reasonable time after the office of the Administrative Authority is first opened subsequent to the making of such excavation.

Section 1 - 1004. Application. Application for permit required by this Ordinance shall be made in writing to the Administrative Authority on forms furnished by him or in a manner acceptable to him. The written application shall state the name and address of the applicant, the nature, location, and purpose of the excavation, the date of commencement and estimated date of completion of the excavation and other data as may reasonably be required by such official. The application shall be accompanied by plans showing the location and extent of the proposed excavation work, and such other information as may be required by said official; except that plans shall not be required when excavations are to be made for service connections by a utility or for the location of trouble in conduits or pipes, or making repairs.

Section 1 - 1005. Excavation Permit Fees. A permit fee shall be charged by the <sup>Town</sup> City for the issuance of an excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The <sup>Town</sup> City shall charge such fees as are required to recover fully the costs of issuing and administering the permit plus any reasonable allowance for overhead.

The <sup>Town</sup> City may elect to negotiate an annual permit fee with a utility holding a franchise granted by the <sup>Town</sup> City Council.

Nothing herein shall prohibit any person from doing all or any part of the work called for in said permit, provided that permission is obtained from the Administrative Authority, and provided further that all such excavations and pavement repairs shall be subject to the inspection and approval of the Administrative Authority. If the area covered thereby is not restored to as good condition as the same was in before the work was done, the Administrative Authority shall at the expense of the permittee proceed to do such work as may be necessary to restore said area.

Section 1 - 1008. Diligent Prosecution of Work. After the excavation is commenced the work of making and refilling the same shall be prosecuted with due diligence and so as not to obstruct the street more than is actually necessary.

Section 1 - 1009. Routing of Traffic. The permittee shall take appropriate measures to assure that during the performance of the excavation work traffic conditions as nearly 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; provided that the Administrative Authority may permit the closing of streets to all traffic for a period of time prescribed by him if in his opinion it is necessary.

Section 1 - 1010. Protection of Traffic. It shall be the duty of every person cutting or making any excavation in or upon any public street or sidewalk to take reasonable precautions to place and maintain at each end of such excavation and along the line thereof barriers or flags or warning lights or other equipment as may be prescribed by the Administrative Authority. When dictated by field conditions, warning sign shall be placed far enough in advance of the construction operation to alert traffic properly within a street.

Section 1 - 1011. Clearance for Vital Structures. The excavation work shall be performed and conducted so as not to interfere with the access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, and all other vital equipment as designated by the Administrative Authority.

Section 1 - 1012. Maintenance of Traffic. The permittee shall maintain safe crossing for two lanes of vehicle traffic at all street intersections where possible, and safe crossing for pedestrians at intervals of not more than 300 feet. If any excavation is made across any public street, alley, or sidewalk, adequate crossing shall be maintained for vehicles and pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passage way at least one half of the sidewalk width shall be maintained in and along such sidewalk line.

Section 1 - 1013. Relocation and Protection of Utilities. The permittee shall not interfere with any existing facility without the written consent of the Administrative Authority and the owner of the facility. If it becomes necessary to relocate any existing facility, such work shall be

done by its owner. No facility owned by the <sup>TOWN</sup> ~~city~~ shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless other arrangements are made with the owners of the facility. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected in any way by the excavation work and do everything necessary to support, sustain, and protect them under, over, along, or across said work. In case of any said pipes, conduits, poles, wire or pipe coating or other encasement or devices or apparatus should be damaged, the permittee shall promptly notify the owners thereof. All damaged facilities shall be repaired by the agency or person owning them, and the expense of such repairs shall be charged to the permittee. It is the intent of this paragraph that the permittee shall assume all liability for damage to facilities, and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

Section 1 - 1014. Protection of Adjoining Property. The permittee shall at all times at his or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures the permittee shall obtain permission from the owner of such private property for such purpose, and if he cannot obtain such permission from such owner the Administrative Authority may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall at its own expense shore up and protect all buildings, walls, fences, or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it shall be necessary for the permittee to trench through any lawn area, said area shall be reseeded or the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this ordinance. All construction and maintenance work shall be done in a manner calculated to leave the lawn area

clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.

Section 1 - 1015. Care of Excavated Material. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians, or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Administrative Authority shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

Section 1 - 1016. Clean-Up. As the excavation work progresses all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Administrative Authority. From time to time as may be ordered by the Administrative Authority, and in any event immediately after completion of said work, the permittee shall at his or its own expense clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within 24 hours after having been notified to do so by the Administrative Authority said work may be done by the Administrative Authority and the cost thereof charged to the permittee.

Section 1 - 1017. Protection of Water Courses. The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for a least one foot in width from the face of such curb at the gutter line. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained. The permittee shall make provisions to take care of all surplus water, muck, silt, slickings, or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

Section 1 - 1018. Breaking Through Pavement. A hydra-hammer or

similar equipment may be used in breaking up the pavement. Unstable pavement shall be removed over cave-outs and overbreaks, and the sub-grade shall be treated as the main trench. Cutouts outside of the trench lines must be parallel to the trench line. The permittee shall not be responsible for the repair of pavement damage existing prior to the excavation.

Section 1 - 1019. Backfilling. Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree consistent with that of the undisturbed ground in which the trench was dug. Compacting shall be done by manual or mechanical tampers or vibrators, by rolling in layers, or by water settling as required by the soil in question and sound engineering practices. Fine material reasonably free from lumps and stones, selected from the spoil, shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved. Broken pavement, large stones, roots, and other debris shall not be used in the backfill.

Section 1 - 1020. Restoration of Surface. The permittee shall restore the surface of all streets broken into or damaged as a result of the excavation work to its original condition in accordance with the specifications of the Administrative Authority. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe traveling condition until such time as permanent restorations are made. When it is not practical to replace pavement immediately over any cut or excavation, temporary methods such as wood cover or barricades may be used. The asphalt which is used shall be in accordance with the specifications of the Administrative Authority.

Inspection of excavation or restoration by the Administrative Authority shall not relieve the permittee of its responsibilities hereunder.

Section 1 - 1021. Town's Cities Right to Restore Surface. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or fails to prosecute the work in accordance with the requirements of this ordinance or shall otherwise have failed to complete the excavation work covered by such permit, the Administrative Authority shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual costs

thereof plus a reasonable allowance for general overhead and administrative expenses.

It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition as it was prior to the excavation for twelve months after restoring it to its original condition; provided that the permittee shall not be responsible for the maintenance of any work performed by the Administrative Authority in accordance with this section.

Section 1 - 1022. Inconvenience to Public. Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. Between the hours of 10:00 p.m. and 7:00 a.m. the permittee shall not use, except with the permission of the Administrative Authority or in the case of an emergency as herein otherwise provided any tool, appliance, or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

Section 1 - 1023. Preservation of Monuments. Any monuments set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point or a permanent survey bench mark within the City shall not be removed or disturbed or caused to be removed or disturbed, except in case of an emergency, without first obtaining permission in writing from the Administrative Authority. Permission to remove or disturb such monuments, reference points, or bench marks shall be granted only upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of this monument by the Administrative Authority.

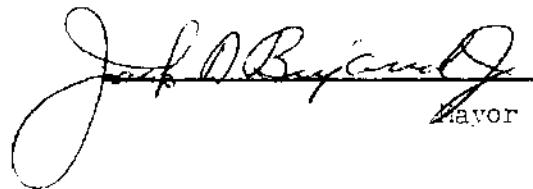
Section 1 - 1024. Inspections. The Administrative Authority shall make such inspections as are reasonably necessary in the enforcement of this ordinance. When so made the permittee shall pay for such inspections at the City's cost. The Administrative Authority shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this ordinance.

Section 1 - 1025. Liability of City. This ordinance shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any

excavation work.

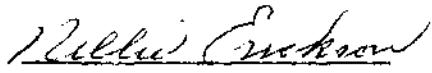
Section 1 - 1026. Penalties. Violation of this ordinance is a misdemeanor. Every person is guilty of a misdemeanor who ~~fails to~~ violates any provision of this ordinance or fails or neglects to comply with any requirements of this ordinance. Such person is guilty of a separate offense for each and every day during any part of which any such violation or non-compliance occurs and is punishable by a fine or imprisonment, the amount or duration of which shall be established by the <sup>Town</sup> ~~City~~ Council.

Passed by the <sup>Town</sup> ~~City~~ Council of the <sup>Town</sup> ~~City~~ of Gig Harbor  
this 8th day of May, 1969.



Jack D. Bryant  
Mayor

Attest:



Nellie Erickson  
Clerk

# Affidavit of Publication

STATE OF WASHINGTON, }  
COUNTY OF PIERCE. } S.S.

Robert H. Platt Jr., being first duly sworn, on oath deposes and says that he is the Publisher of THE PENINSULA GATEWAY, a weekly newspaper. That said newspaper is a legal newspaper and it is now and has been for more than six months prior to the date of the publication hereinafter referred to, published in the English language continually as a weekly newspaper in Gig Harbor, Pierce County, Washington, and it is now and during all of said time was printed in an office maintained at the aforementioned place of publication of said newspaper.

That the annexed is a true copy of a Model Street Opening Ordinance - Ordinance No. 119.

as it was published in regular issues (and not in supplement form) of said newspaper once each week for a period of One (1) consecutive weeks, commencing on the 29th day of May 1969, and ending on the 29th day of May 1969 both dates inclusive, and that such newspaper was regularly distributed to its subscribers during all of said period.

That the full amount of the fee charged for the foregoing publication in the sum of \$ 94.60 which amount has been paid in full, at the rate of \$1.00 a hundred words for the first insertion and \$0.50 a hundred words for each subsequent insertion.

*Robert H. Platt Jr.*

Subscribed to and sworn before me this 31st day of May, 1969.

*J. Kennedy Dohre*  
Notary Public in and for the State of Washington.

Residing at *Gig Harbor*, Washington.

The Administrative Authority shall make such inspections as are reasonably necessary in the enforcement of this ordinance. When so made the permittee shall pay for such inspections at the Town's cost. The Administrative Authority shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this ordinance.

## Section 1—1025. Liability of Town.

This ordinance shall not be construed as imposing upon the Town or any official or employee any liability or responsibility for damages to any person injured by the performance by him or of any excavation work for which an excavation permit is issued hereunder, nor shall the and address of the Town or any official or employee hereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the reasonable approval of any excavation work, official.

Section 1—1026. Penalties. Violation of this ordinance is a misdemeanor. Every person who violates any provision of this ordinance or fails or neglects to comply with any requirements of this ordinance. Such person is guilty of a separate offense for each and every day

lb. 49c

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