

**ORDINANCE NO. 622**

**AN ORDINANCE REGULATING STREETS, SIDEWALKS AND  
EXCAVATIONS; PERSCRIBING PENALTIES; AND REPEALING  
CERTAIN ORDINANCES.**

**THE CITY OF AMITY ORDAINS AS FOLLOWS:**

**SECTION 1 – DEFINITIONS**

For purposes of this ordinance, the following mean:

- (1) “Alley” means a narrow street through the middle of the block.
- (2) “Bicycle” means a device propelled by human power upon which a person may ride, having two or more tandem wheels, either of which is six inches or more in diameter.
- (3) “Bus stand” or “Bus stop” means a space adjacent to the curb designated by sign to be occupied exclusively by buses loading or unloading passengers.
- (4) “City Administrator” means the City Administrator for the City of Amity.
- (5) “Curb” means the extreme edge of the roadway.
- (6) “Design District” means an area subject to separate design standards adopted by resolution of the city council.
- (7) “Developer” means any individual or entity constructing, demolishing or repairing a public capital improvement within the City.
- (8) “Development” means a building, property use or mining operation making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), and creation or termination of a right of access.
- (9) “Driveway” means a structure used for vehicular access from the public right-of-way to abutting private property located normally between the curbing or lateral lines of the roadway surface and the adjacent property line
- (10) “Encroachment” means any private structure installed within the Right-of-Way.
- (11) “Engineer” means the City Engineer or Public Works Director or his authorized representative.

- (12) "Frontage Zone" means the area of the sidewalk corridor between the Through Pedestrian Zone and the property line as defined by resolution of the city council.
- (13) "Furnishing Zone" means the area of the sidewalk corridor between the curb and the Through Pedestrian Zone as defined by resolution of the city council.
- (14) "Land area" means the area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.
- (15) "Loading Zone" means a space adjacent to the curb designated by sign reserved for the exclusive use of vehicles during the loading or unloading of passengers, material or freight.
- (16) "Motor Vehicle" means every vehicle that is self propelled, including tractors, fork lift trucks, motorcycles, road building equipment, street cleaning equipment and any other vehicle capable of moving under its own power, not withstanding that the vehicle may be exempt from licensing under the motor vehicle laws of Oregon.
- (17) "Owner" means a natural person, firm, corporation, or other legal entity holding the deed, record title or the purchaser under a recorded sales agreement and other persons having an interest of record in the described real property.
- (18) "Parcel of land" means a lot, parcel, block, or other tract of land that is occupied or may be occupied by a structure, or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision, and other development ordinance.
- (19) "Park" or "Parking" means a motor vehicle that is stopped while occupied by its operator with the engine turned off or a motor vehicle that is stopped while unoccupied by its operator whether or not the engine is turned off.
- (20) "Parkway" means that portion of a street not used as a roadway or a sidewalk.
- (21) "Passenger loading zone" means a loading zone reserved only for the loading or unloading of passengers and their luggage.
- (22) "Pedestrian" means a natural person afoot.
- (23) "Person" means a natural person, firm, partnership, association or corporation, whether or not they are acting for themselves or as a clerk, servant, employee or agent of another.

- (24) "Person in charge of property" means an agent, occupant, lessee, contract purchaser or person, other than the owner, having possession or control of the property.
- (25) "Roller skates" or "Roller Blades" means a shoe or boot with a set of wheels attached for skating over a flat surface. These terms also include a metal frame with wheels attached that can be fitted to the sole of a shoe or boot.
- (26) "Sidewalk" means that part of a street right-of-way between the curb line or the lateral line of the paved portion of the roadway and the adjacent property line that is intended for the use of pedestrians.
- (27) "Sidewalk corner obstruction free area" means the area between the curb and the lines created by extending the adjacent property lines to the curb face.
- (28) "Skateboard" means a board or similar platform made from any substance mounted on wheels.
- (29) "Scooter" means a foot operated vehicle, consisting of a narrow board mounted between two wheels tandem with an upright steering handle attached to the front wheel.
- (30) "Stand" or "Standing" means the stopping of a motor vehicle while occupied by its operator with the engine running, except stopping in obedience to the instructions of a traffic officer or traffic control device or for other traffic.
- (31) "Stop" means the complete cessation of movement.
- (32) "Street" means alleys, sidewalks, parking areas and accessways owned or maintained by the city and includes the terms "highway", "road" and "street". In addition it includes property, whether publicly or privately owned and whether publicly or privately maintained, upon which the public operates vehicles, either by express or implied invitation and includes but is not limited to parking lots, service station lots, shopping center and supermarket parking lots and other accessways and parking lots open to general vehicular traffic, whether or not periodically closed to public use.
- (33) "Street tree" means any tree or part of a tree, existing or new planting, including the canopy and root system, that lies on or has grown onto or over public property, or in public right-of-way owned by the city.
- (34) "Taxi stand" means a space adjacent to the curb designated by sign reserved for taxicabs to stand or wait for passengers.

- (35) "Through pedestrian Zone" means the area of sidewalk between the Furnishing Zone and the Frontage Zone in which no obstructions, openings or other impediments would prevent or discourage movement by pedestrians, including but not limited to utility poles, signs, benches, merchandise, trash receptacles, plants, etc.
- (36) "Traffic control device" means a device used to direct vehicular, bicycle or pedestrian traffic or parking, including but not limited to a sign, signaling mechanism, barricade, button, street marking or curb marking installed by the city or other authority.
- (37) "Traffic Lane" means that portion of the roadway used for the movement of a single lane of vehicles.
- (38) "Vehicle" means any type of vehicle, including bicycles.

## **SECTION 2 – APPLICABILITY TO PROPERTY OPEN TO PUBLIC TRAVEL**

- (1) The provisions of this ordinance shall apply upon property open to public travel. Any conduct or status that would constitute a violation of the statutes if it occurred on a public street will, if it occurs on other property open to public travel constitute a municipal traffic infraction under the provision of the ordinances of the City of Amity.

## **SECTION 3 – EXISTING CONTROL DEVICES**

- (1) All official traffic signs and markings existing at the time of the adoption of this ordinance such as stop signs, caution signs, slow signs, no-reverse-turn signs, signs designating time limits for parking or prohibited parking, lines painted or marked on street or curb designated parking areas or spaces, markers designating loading zones and all other official traffic signs erected, installed or painted for the purpose of directing, controlling and regulating traffic are approved.
- (2) All resolutions and parts of resolutions of previous date regulating parking controls and regulations inconsistent with this ordinance are hereby repealed and annulled.

## **SECTION 4 – TRAFFIC CONTROL DEVICES**

- (1) Manual adopted. The Manual on Uniform Traffic Control Devices for Streets and Highways, including supplements and/or amendments, as adopted by the State of Oregon Highway Department for uniformity of traffic control

devices, is adopted and shall constitute the official standards for the design and use of traffic control devices in the city.

- (2) Designation by council. After approval by the Oregon State Highway commission, where such approval is required by the motor vehicle laws of Oregon, the city council may designate traffic controls described in this Ordinance, which controls shall become effective upon installation of appropriate traffic signs, signals, markings or other devices.
- (3) Duties of the engineer. The engineer shall implement the ordinances, resolutions and motions of the council by installing traffic control devices and establish, maintain, remove or alter traffic control devices for crosswalks, sidewalks, traffic lanes, intersection channelization and areas where drivers of vehicles shall not make right, left, or no-reverse-turns and the time prohibition applies, parking areas including the form of permissible parking (i.e. parallel or diagonal).
- (4) Parking sign restriction. No person shall letter, mark or paint in any manner any letters, marks or signs on a sidewalk, curb, street or alley, or post on a parking strip anything designed or intended to prohibit or restrict parking in front of a sidewalk, dwelling, business or alley, except in compliance with this ordinance.
- (5) Yellow paint on curb.
  - a. Yellow paint on a curb without a sign shall indicate a zone of no parking at any time.
  - b. Yellow paint on a curb shall accompany any other parking restriction, except fire lane, with a sign designating the applicable restriction.
  - c. In addition to provisions of the motor vehicle laws of Oregon prohibiting parking, no person shall park a vehicle in an area that has been painted yellow for no parking or so signed or marked.

## **SECTION 5 – STREETS AND SIDEWALKS**

- (1) Permits required.
  - a. No person shall remove, alter or construct any curb, driveway, sidewalk or gutter on or in any street, alley, right-of-way or other property owned by or dedicated to or used by the city and over which it has jurisdiction to regulate the matters covered hereby without first obtaining a permit from the city.
  - b. An application for a permit shall be filed with the city on a form prescribed by the city and shall contain such information and data as required by it.
  - c. Before any permit is issued, the applicant shall pay to the city a permit fee as set by resolution of the city council.
  - d. All work done under a permit issued in compliance with this section shall be done under the direction of the engineer. The engineer may revoke a permit

- issued under the provisions of this section at any time he is satisfied that the work is not being performed according to the provision thereof.
- e. The acceptance of a permit constitutes an agreement by the applicant to save the city, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit.
- (2) Driveway restrictions. No person shall place dirt, wood or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.
- (3) Sidewalk or parkway restrictions.
- a. The driver of a vehicle shall not drive upon or within a sidewalk or parkway area except to cross at a permanent or temporary driveway.
  - b. In addition to provisions of the motor vehicle laws of Oregon prohibiting parking, no person shall park a vehicle upon any parkway or sidewalk except where specifically authorized, nor park in any location that necessitates the mounting, crossing or straddling of any curb in excess of two and one-half inches in height.
  - c. Unless otherwise provided, this subsection shall be enforced pursuant to the provisions of ordinances relating to controlling vehicular and pedestrian traffic.
- (4) Other Structures in the Public Right-of-way.
- a. No person shall, except as permitted by ordinance, to place any post, sign or obstruction in any public street or public sidewalk area.
  - b. Proposal for other, less typical private structures in the public right-of-way will be considered on a case-by-case basis. All approved encroachments shall be located:
    - i. Outside of the Through Pedestrian Zone
    - ii. Outside of the sidewalk corner obstruction free area.
    - iii. Outside of any Bus Stop area
    - iv. Minimum of 2 feet from the curb face
    - v. Minimum of 3 feet from a fire hydrant
    - vi. Minimum of 5 feet from any driveway
  - c. Approved encroachments shall not compromise safety (sight distance, visibility, object hazard) or interfere with city maintenance functions.
- (5) Merchandise sale or display.
- a. No person, except as otherwise permitted by ordinance, shall use any street or public sidewalk for selling, storing or displaying merchandise or equipment unless permission is granted to such person or group of persons by the city council during specified hours of specified days for a specified duration.
  - b. The provisions of this subsection shall not apply to the delivery of merchandise or equipment; provided, that the owner or person in charge of

the merchandise or equipment or the property abutting on the street or public sidewalk upon which the merchandise or equipment is located removes the merchandise or equipment within a reasonable time and that the merchandise or equipment is outside of the Through Pedestrian Zone.

(6) Trees.

- a. No owner or person in charge of property that abuts upon any street or public sidewalk shall permit trees or bushes on the person's property to interfere with street or sidewalk traffic. It is the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on the person's premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the street surface or fourteen feet above the street surface on property adjacent to designated truck routes.
- b. No person or person in charge of property shall allow to stand any dead or decaying tree that is a hazard to the public or to persons or property on or near the property.
- c. All street trees that were required to be installed under a street tree plan or similar requirement shall be maintained in a healthy condition by the adjoining property owner, or replaced with a tree consistent with the approved street tree plan for that location.
- d. No person shall remove any tree greater than 1.5 inches in diameter from the public right of way without first obtaining a permit from the city to do so, except as noted below.
- e. Because mature, healthy trees contribute significantly to the beauty and character of the community, city staff will generally not issue a permit to remove a street tree greater than six inches in diameter unless the tree is diseased, rotten, dead or dying, significantly misshapen, an obstruction, or other hazard. A certified arborist may be required to verify the tree's condition before removal is permitted.
- f. No person shall top or severely prune a tree greater than two inches in diameter in the right-of-way without first obtaining a permit from the city to do so, except where such pruning is required by city ordinances or requested by the city, such as to maintain clearances from sidewalks, street signs, streets, or alleys. Severe pruning is defined as severing the trunk, or cutting back to the trunk, or cutting a limb larger than four inches in diameter to a stub. A permit may be issued to prune a tree to remove a tree, limbs or roots which are dead, to remove trees, limbs or roots which have been severely damaged by storms or other causes or which otherwise pose a danger to the public health and overall attractive shape of the tree. The permit may require that pruning be done under the supervision of a certified arborist.
- g. The city may require that a tree removed be replaced with a tree in accordance with an approved street tree plan or from the city's approved street tree list.
- h. The above requirements do not apply to tree pruning or removal by city staff or agents. They also do not apply to public utility agencies or their agents

pruning or removing trees as necessary to comply with applicable utility clearance standards. They do not apply in emergency circumstances.

- (7) Curbs, sidewalks and driveways.
- a. All sidewalks and driveways installed within the city right-of-way shall be designed, constructed, reconstructed, altered or repaired in accordance with specifications prepared and kept on file by the engineer.
  - b. It is the duty of an owner of land adjacent to a public right-of-way in the city to construct, reconstruct, repair, and keep clear of leaves, ice, snow and all other obstructions or hazards to the public which are reasonably removable on all sidewalks and driveways adjacent to said land. The engineer shall notify the property owner of the need to repair sidewalks and driveways after determining that the existing sidewalk is in such a state of disrepair that the condition or defect is such that it would create a danger to pedestrians. Such notice to the property owner shall be in writing.
  - c. No person in charge of any building or structure shall suffer or permit rainwater, ice or snow to fall from such building or structure onto a street or public sidewalk or to flow across such sidewalk.
  - d. The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about such will not be carried across or upon any sidewalk.
  - e. The owner responsible for maintenance of the adjacent sidewalk and driveway shall be liable to any third person who sustains any injury or damage as a result of inadequate maintenance, repair, construction, or failure to adequately remove snow, ice, leaves or any other hazard or obstruction from that portion of sidewalk or driveway abutting his property. Additionally, any person who fails to perform or comply with the duties imposed by this subsection shall be liable to any third person for injuries or damages suffered as a result of such failure.
  - f. No owner or person in charge of property shall permit cellar door or grate located in or upon a sidewalk or public pathway to remain open except when such entrance is being used and, when being used, there are adequate safeguards for pedestrians using the sidewalk.
  - g. No person, except as otherwise permitted by ordinance, shall obstruct, cause to be obstructed or assist in obstructing vehicular or pedestrian traffic on any street or public sidewalk.
  - h. Concurrent with the issuance of a building permit for the construction of a building for residential use or business structures or an addition or alteration to a dwelling or business structure, the value of which is \$5,000 or more.
    - i. The owner, builder or contractor to whom the building permit is issued shall meet the following requirements:
      1. Construct a sidewalk within the dedicated right-of-way for the full frontage in which a sidewalk in good repair does not exist. The sidewalk construction shall be completed within

- the building construction period or prior to issuance of an occupancy permit, whichever is the lesser.
2. Dedicate right-of-way in accordance with an approved city plan.
- ii. The engineer may issue a permit and certificate allowing noncompliance with the provisions of this subsection to the owner, builder or contractor when, in his opinion, the construction of a sidewalk is impractical for one or more of the following reasons:
    1. Sidewalk grades have not and cannot be established for the property in question within a reasonable period of time.
    2. Future installation of public utilities or street paving would, of necessity, cause severe damage to existing sidewalks.
    3. Topography or contours make the construction of a sidewalk impractical.
    4. The noncompliance provided in article (1) and (2) shall be temporary and shall cease to exist when grades are established for sidewalks by the Public Works Department or when public utilities or street paving have been constructed.
  - iii. If the owner, builder or contractor considers any of the requirements impractical for any reason, they may appeal the decision to the Planning Commission.
  - iv. If sidewalk is not constructed within the time required by this subsection, then the city may construct it for the full street frontage in front of the property and proceed with the construction, assessment and collections of costs as provided for in this subsection (f) of this section.
- i. It is the duty of every property owner whose vacant or undeveloped property abuts upon any street, which has been improved with a hard-surface pavement, to construct a concrete curb and sidewalk conforming to city ordinances when 50% of the lineal distance of the sidewalk of said block has already been installed. Said construction shall be completed within two (2) years after notice by the engineer.
  - j. It is the duty of every property owner of developed property whose property abuts upon a street, which has been improved with a hard-surface pavement, to construct a concrete curb, sidewalk and driveway conforming to city ordinances when 50% of the lineal distance of the sidewalk of said block has already been installed. Said construction shall be completed within one (1) year after notice by the engineer.
  - k. It is the duty of every property owner whose property abut upon a street designated as a "high pedestrian use street" to construct a concrete curb and sidewalk conforming to city ordinances within one (1) year after notice by the engineer. The engineer shall identify "high pedestrian use streets" by determining whether a certain street is a primary walking route to schools, community buildings, or commercial areas and whether the absence of sidewalks along those walking routes is a potential danger to pedestrians. The engineer may also apply other factors such as pedestrian counts,

projects under construction, or sites designed for development when identifying “high pedestrian use streets”.

1. The city council may, when it deems it reasonable, necessary and expedient, order the construction, reconstruction, or repair of a sidewalk or driveway by the owner or owners of land adjoining any public right-of-way in the city.
  - i. The order shall be by written resolution and shall contain.
    1. A description of the land adjacent to the ordered work and the same may be by street address only.
    2. The names or names of the owners of the affected property.
    3. The time within which the work is to be completed.
    4. The order of the council requiring the work to be accomplished.
    5. An order directing the engineer to notify the owners of the city council action.
  - ii. The engineer shall be responsible to assure that the following requirements are fulfilled when the powers of city council are to be used to accomplish the construction, reconstruction, or repair of sidewalks or driveways.
    1. Notices shall be sent out ten days in advance of any council action to the affected owners, or their agents, that consideration will be given to the construction, reconstruction or repair of the sidewalks or driveways adjacent to their property.
    2. It shall be deemed sufficient that the notice is served by one or more of the following methods:
      - a. Registered mail
      - b. Posted on the property
      - c. Served personally
      - d. Publication in a local paper
    3. A mistake in the name of the owner shall not render void such notice.
  - iii. In the event the order of the council for the construction, reconstruction or repair of a sidewalk or driveway is not complied with within the time designated or is not complied with according to the engineer’s specifications or directions, the engineer shall cause the order to be performed either by contract or force account and shall keep an accurate cost record of the expense as it applies to each parcel of land.
  - iv. Upon receipt of the record of costs specified in the above, the council shall by ordinance assess the cost of all work against the adjacent property. The assessment shall be a lien against the property and may be collected in the same manner as is provided by law for the collection of unbonded liens for local improvements.
  - v. The provisions of the “Bancroft Bonding Act” of the State of Oregon shall not be applicable to assessments made under this chapter unless the council directs otherwise in the resolution ordering alternative

forms of financing by or under the direction of the city upon such terms and provisions as the council may deem appropriate.

- m. Any person who may desire to construct or is required to construct, reconstruct or repair any sidewalk, curb or driveway shall obtain a permit before commencing work; and such application shall specify the property along which such walk, curb or driveway is to be laid, the name of the person for whom same is to be performed and the time within which same is to be completed. It is hereby the duty of the engineer to issue permits and upon the request of any person to whom a permit has been issued as herein provided and within a reasonable time thereafter, to set the grade and line stakes for the construction of any sidewalk, curb or driveway in the city. No person shall construct or cause to be constructed any sidewalk, curb or driveway in the city until such grade and line stakes have been set.
  - n. The engineer may authorize the installation of a meandering sidewalk for esthetic purposes provide that said walk does not substantially inconvenience the general public nor create an apparent traffic or pedestrian hazard.
- (8) Parking controls and regulations.
- a. The city council may designate the parking and standing of vehicles by:
    - i. Prohibitions and hours restrictions. Classifying portions of streets and alleys upon which either parking or standing or both, shall be prohibited or prohibited during certain hours.
    - ii. Time Limits. Establishing the time limit for legal parking in limited parking areas.
    - iii. Common Carrier Stands. Establishing bus stops, bus stands, taxicab stands and stands for other passenger common carrier vehicles.
    - iv. Passenger Loading Zones. Designating the location of passenger loading zones for use in front of the entrance to any hotel, auditorium, theater, church, school or public building.
    - v. Public Parking. Designating city-owned or city leased lots or property on which public parking will be permitted or restricted.
  - b. In addition to provisions of the motor vehicle laws of Oregon prohibiting parking, no person shall park a vehicle in an alley except to load or unload persons or materials for not to exceed thirty consecutive minutes. In addition, no person shall park so as to block access to private driveways or any portion of a public sidewalk.
  - c. No person shall park a vehicle in a public parking lot in violation of the posted restrictions. No person shall park in a public parking lot except in a designated parking space.
  - d. In additions to provisions of motor vehicle laws of Oregon prohibiting parking, no person shall park a vehicle in an area that has been designated for compact cars only which is greater in overall length of sixteen feet and or is greater in overall height than five feet.
  - e. Unless otherwise provided, this subsection shall be enforced pursuant to the provisions of ordinances relating to controlling vehicular and pedestrian traffic.

- (9) Fire department connections.
- a. It shall be unlawful for the owner of property adjacent to a street upon which as located a fire hydrant to place or maintain within three feet of such hydrant any brush, shrub or tree, or other obstruction.
  - b. In addition to provisions of the motor vehicle laws of Oregon prohibiting parking, no person shall park a vehicle within ten feet of either side of a fire department connection device, said zone constituting an area twenty feet in length centered on the fire department connection.
  - c. The area designated in article (b) of this subsection shall be identified pursuant to law or in such a manner provided by this ordinance or the Uniform Fire Code for a no parking zone.
- (10) Scheduled construction and emergency repair of city facilities.
- a. No parking shall be allowed in areas of scheduled construction or repair of city facilities, along detours caused by such construction or repairs and areas where such construction, repairs or detours cause traffic control difficulties as deemed necessary by the engineer. Temporary "NO PARKING" signs shall be placed at least twelve hours in advance of enforcing this no parking regulation in areas of scheduled construction or repair of city facilities, detours and traffic control difficulties, caused by such construction, repairs or detours.
  - b. For emergency repair of city facilities, all legally parked vehicles and any other lawfully placed obstructions, located within the street right-of-way for which removal has been deemed necessary to perform the repair, may be towed or removed and stored, and the city shall pay all costs associated with such towing and removal. The city shall also pay all the cost of said storage for twenty-four hours after the owner has received notification of such action.
  - c. Unless otherwise provided, this subsection shall be enforced pursuant to the provisions of ordinances relating to controlling vehicular and pedestrian traffic.
- (11) Bicycles, roller skates, rollerblades, skateboards and scooters.
- a. The operator of a bicycle, roller skater, skateboard or scooter entering or emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alley or driveway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.
  - b. A person riding a bicycle, roller skates, skateboard or scooter upon a sidewalk shall yield the right-of-way to pedestrians.
  - c. No person shall park a bicycle upon a street or sidewalk except in a rack. If no rack is provided, the bicycle shall be parked in such a manner as to afford the least obstruction to pedestrian and vehicular traffic and located outside the through pedestrian zone.

- d. No persons, other than a police officer or police reserve officer in the furtherance of his or her duty, shall ride or operate a bicycle, scooter, skateboard, roller skates or rollerblades upon a sidewalk in a designated design district.
- e. Unless otherwise provided, this subsection shall be enforced pursuant to the provisions of ordinances relating to controlling vehicular and pedestrian traffic.

## SECTION 6 – EXCAVATIONS

- (1) Permit required.
  - a. No person or persons shall make an excavation in or dig up any street, alley, highway, sidewalk or other public place within the city limits of the city for any purpose without having obtained a permit in writing for such purpose from the engineer.
  - b. An application for a permit shall be filed with the city on a form prescribed by the city and shall contain such information and data as required by it.
  - c. Before any permit is issued, the applicant shall pay to the city a permit fee as set by resolution of the city council.
  - d. All work done under a permit issued in compliance with this section shall be done under the direction of the engineer. The engineer may revoke a permit issued under the provisions of this section at any time he is satisfied that the work is not being performed according to the provision thereof.
  - e. The acceptance of a permit constitutes an agreement by the applicant to save the city, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit.
- (2) Notification requirements. Permit holders shall notify the city at least twelve hours, but not more than seventy-two hours prior to the commencement of any excavation or fill work other than emergencies. The city may inspect at any time throughout the project.
- (3) Safeguards. Whenever any person under the authority of this section places any obstruction in the public right-of-way, or makes any excavation or alteration thereto for any purpose, it shall be the duty of such person or persons to keep the obstruction, excavation or alteration properly safeguarded by substantial signs, barricades and flagmen necessary and to make use of lighting, lighted lanterns, flashing lanterns or other lights or flares from dusk to 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 endangered by such obstructions, excavations or alterations as to require constant supervision to insure that warning and traffic control devices are functional and that traffic is safely and properly routed around such barricades, the person or persons to whom a permit has been issued shall be

responsible for furnishing a night watchman for that purpose. Twenty-four hour notice shall be give before partial or complete closure of any travel lane in any street or alley. Should an emergency situation arise where a twenty-four hour notice is not feasible, every reasonable effort shall be made to notify the engineer in advance of occupation of the right-of-way.

- (4) Inherent responsibilities.
- a. All drainage ways and structures shall be left open for the free flow of water during operations and after completion. No drainage system shall be altered without prior approval of the engineer.
  - b. No mud, gravel or debris shall be allowed to remain on the traveled portion of the improved right-of-way. Provisions must be made to prevent the migration of such material into the city storm drainage system.
  - c. At the close of each work day, all waste material shall be removed fro the site. Traveled portions of the right-of-way shall be restored to a condition acceptable to the engineer. On hard-surfaced right-of-ways, this restoration shall include permanent resurfacing, the placement of temporary asphalt concrete, or an alternative approved by the engineer.
  - d. Any damage cause to existing utility lines shall be reported to the applicable utility or the city, if city facilities are involved.
  - e. Upon completion of the authorized activity, all surplus earth, rock, paving material and other rubbish shall be removed immediately and become the property of he permit holder. Any and all areas disturbed as a result of the activity within the right-of-way shall be repaired to the satisfaction of the engineer.
  - f. It is the position of the city that it should not, at any time, assume responsibility and costs involved in maintenance of failing street patches and other such repairs made by any person or persons in connection with utility, storm drain, water and sanitary sewer installation and maintenance. Such person or persons, therefore, shall be held responsible for the maintenance of such repairs, in a condition acceptable to the engineer. And for all present and future cost incurred as a result of the permitted work and resultant repairs.
- (5) Refilling Trenches. Any person or persons making or causing to be made an excavation in any street, alley, highways, sidewalk or public place within the city limits of Amity shall in every case refill any and all trenches or holes made by the person or persons making the excavations; and it shall be required that the surface of the street, alley, highway, sidewalk or public place where such holes or excavations have been made and refilled shall be left at the same grade and restored to a condition meeting the current city standard for the area as it existed before such excavations were made. Every effort shall be made to effect permanent repairs immediately following project completion. "Time settling" of trenches and holes is not an approved method and any time spent by city staff locating and alerting responsible persons to failing trench patches will be charged to those persons.

- (6) Notice of completion. Within forty-eight hours of the completion of work authorized by permit issued in accordance with this section, the person or persons to whom the permit was issued shall report to the engineer that such work has been completed and shall give such other information as he may require. The engineer shall thereupon examine the work and if he finds it to be fully and properly restored he shall endorse his approval on the permit and arrange the timely release of any related bond or deposit.
- (7) Moratorium against cuts on newly improved streets.
- a. It shall be unlawful for any person to cut or open the surface of a public street, sidewalk or driveway that has been newly constructed, reconstructed, slurry sealed, overlaid, or improved within the previous 60 months, commencing from the date of acceptance of the improvements.
  - b. No Permits shall be issued to excavate or cut in the street, sidewalk or driveway that has been improved within the last 60 months except in the case of emergencies, or when the engineer grants an exemption. An emergency shall be deemed to exist if the work is necessary for the presentation of life or property; or an urgency affecting the health and welfare of the city's residents or businesses occurs; or in the case of failed pipelines or utility services that affect public security or public safety.
  - c. The engineer may grant exemptions to the moratorium for emergency repairs as provide above, or for the installation of needed critical infrastructure or facilities where no other alternatives to cutting a street, sidewalk or driveway subject to the moratorium exist. When granting exemptions the engineer may impose reasonable conditions to insure the rapid and complete restoration of the street, sidewalk or driveway surface.
  - d. If a street, sidewalk or driveway subject to a moratorium is cut for any reason, the engineer shall determine the extent of the required repairs for the damages caused by such a cut. If the engineer determines that restoration of the street, sidewalk, or driveway is not appropriate at a particular time for reasons relating to weather or other short-term complications, the engineer may order a delay and/or the posting of bonds to insure completion of the work when proper conditions allow for the restoration work.
  - e. Permits Required.
    - i. No person or persons shall make an excavation in or dig up any street, alley, highway, sidewalk or driveway subject to a moratorium without having obtained a permit in writing for such purpose from the engineer.
    - ii. An application for a permit shall be filed with the city on a form prescribed by the city and shall contain such information and data as required by it.
    - iii. Before any permit is issued, the applicant shall pay to the city a permit fee as set by resolution of the city council.
    - iv. All work done under a permit issued in compliance with this section shall be done under the direction of the engineer. The engineer may

revoke a permit issued under the provisions of this section at any time he is satisfied that the work is not being performed according to the provision thereof.

- v. The acceptance of a permit constitutes an agreement by the applicant to save the city, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit.
- f. Restoration Guidelines.
  - i. Street restoration for streets subject to a moratorium may include repaving, surface grinding, base and sub-base repairs, or other related work as needed, and may include p to full-width surface restoration of the street.
  - ii. The engineer may require direct boring instead of street cuts to minimize the restoration requirements and/or impacts to the street, sidewalk, or driveway.
  - iii. The following guidelines are established for restoration work of streets, sidewalks and driveways.
    - 1. Recently improved, paved, or overlaid streets. Final resurfacing shall include the grinding of existing surrounding pavement and repaving at a minimum depth of 2-inches. For trenches perpendicular to traffic lanes, the permittee shall grind ten feet on either side of the trench line for the full width of any traffic lanes that have been cut. For trenches parallel to the traffic lanes, the permittee shall grind the entire width of the traffic lane for the full length of the trench with a minimum of ten feet on each end or as directed by the engineer. For trenches other than those perpendicular or parallel to traffic lanes, the engineer shall establish appropriate limits of paving. At the discretion of the engineer, a full-width slurry seal for the entire block may be substituted for the required overlays in residential areas. Transverse paving joints shall be perpendicular to the traffic lanes and longitudinal paving joints shall not be allowed shall not be permitted in vehicle wheel paths. The placement of the surface course of the repaving shall be by self-propelled, automatic leveling, multiple-width paving machine. Work shall meet all applicable construction standards. The engineer may modify the scope of work stated above, including increasing the restoration requirements as he/she shall deem reasonable to restore the street to a condition acceptable for the volume of traffic served by the street cut.
    - 2. Recently slurry-sealed streets. Slurry seal shall be applied to the patched area no sooner than 30 days and no later than 90 days after completion of the pavement repair. The area of slurry seal shall be as described above for recently improved, paved or overlaid streets.

- (8) Violation. Violation of any provision of this section shall be punishable by a fine not to exceed five hundred dollars. Each day of violation shall constitute a separate offense.

## **SECTION 7 – STANDARDS**

- (1) Except as otherwise provided by written contracts with the city or by supplemental specifications and plans authorized and maintained by the engineer, all public improvements, all private improvements located or affecting city-owned utilities shall be constructed, reconstructed, repaired, and maintained in accordance with the most current version of the “Oregon Standard Specifications for Construction” manual published jointly by the APWA Oregon Chapter and the Oregon Department of Transportation.
- (2) For the purpose of administration of the provisions of the manual, the term “owner” shall refer to the city and the term “contractor” shall refer to the person responsible for the construction, reconstruction and repair of the improvements.
- (3) Exceptions and additions to the plans and specifications contained in the manual may be authorized or required by the engineer. With regard to a particular project or class of project, the engineer may disapprove any specification or material otherwise permitted if, in the engineer’s opinion, the use of the specification material would not be suitable or would not conform with the highest standards of safety, engineering and construction practices.
- (4) All official elevations established in the city shall be with reference to their elevation as compared with the official base, NGS NAD 83, in feet and decimal parts of a foot. No grade or official elevation shall be established other than by ordinance and in the manner approved by the engineer. The official city base or plane or reference for coordinates and elevations is Yamhill County GPS station 53, located at the centerline intersection of 3<sup>rd</sup> Avenue and Getchell Avenue.

## **SECTION 8 - ENFORCEMENT**

- (1) Failure to comply. Failure to comply with any provision of this ordinance, with the standards and specifications set forth by the engineer, or with sound and accepted safety, health or engineering practices shall be just cause for the engineer to direct city forces or an independent contractor to make any temporary or permanent repairs deemed necessary to bring the subject work into compliance with the above standards and practices. Cost of this work shall be charged to the permit holder at a rate of one and one-half times the cost to the city plus fifteen percent overhead and administration. The engineer

may revoke the prequalification of any party with delinquent. Payments and may take other steps necessary to collect such costs including, but not limited to, the filing of a lien on the property for which the work was performed.

- (2) City liability. Nothing contained in this ordinance shall be implied to require the city, or its officials, agents or employees, to monitor or inspect any project to determine whether the provisions of this chapter have been, or are being complied with.
- (3) Severability. If any portion of this ordinance, for any reason, is held to be invalid, such decision shall not affect validity of the remaining portions of this ordinance.
- (4) Violation.
  - a. Violation of a provision identical to a state statute is punishable by a fine and/or imprisonment not to exceed the penalty prescribed by the state statute.
  - b. Violation of any provision of this ordinance, not otherwise provided for, shall be punishable by a fine not to exceed five hundred dollars. Each day of violation shall constitute a separate offense.
  - c. Any act or condition prohibited by this ordinance may be declared to be a public nuisance and may be abated by the procedures, including summary abatement procedures, set forth in other ordinances relating to nuisances.
  - d. The abatement of a nuisance is not a penalty for violating this ordinance but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.
- (5) Repeal. Sections 88, 89 and 91 of Ordinance 367, passed February 5, 1973; Subsection (1) and (2) of Section 5 of Ordinance 372, passed June 4, 1973; Sections 5 and 9 of Ordinance 340, passed April 3, 1967; Ordinance 98, passed December 4, 1911; Ordinance 383, passed December 3, 1973; and Ordinance 513, passed September 9, 1991, are repealed.
- (6) Saving Clause. The repeal of any ordinance by subsection 5 shall not preclude any action against any person who violated the ordinance prior to the effective date of this ordinance.

#### **SECTION 9 – FEES**

The Amity City Council may establish fees by resolution for permits issued pursuant to this ordinance.

#### **SECTION 10 – EFFECTIVE DATE**

This ordinance will take effect 30 days from its passage.

FIRST READING: October 6, 2010  
SECOND READING: November 3, 2010

**SUMBITTED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

Ayes: Ball, Dahl, Homen, King, van Soolen

Nays:

Signed:

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Mayor Michael Cape

ATTEST:

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City Recorder Jennifer Elkins