

ORDINANCE NO. 2735

AN ORDINANCE TO REGULATE THE MAKING OF CUTS IN STREETS; TO REQUIRE APPLICATIONS, PERMITS, SECURITY THEREFOR; AND TO PRESCRIBE PENALTIES FOR VIOLATION THEREOF.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: DEFINITION OF TERMS. The following words and phrases when used in this Ordinance shall, for the purpose of this Ordinance, have the meaning respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning.

- (a) Person. Every natural person, firm, co-partnership, association, or corporation.
- (b) Street. Every 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.

Section 2: It shall be unlawful for any person to cut, break, dig up, damage in any manner, undermine or tunnel under any public street or alley without first complying with the provisions of this Ordinance in regards to the obtaining of permits, depositing of securities, and the making of applications to the City Engineer. Applications for permits shall be in the form prescribed by the City 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.

(a) 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; the number of days required to complete the work; and an agreement to deposit such securities as required by the City Engineer, to comply with the provisions of this Ordinance and with the specifications of the City Engineer pertaining to the conduct of the work to save the City and its employees harmless against any injury or damage which may result from the actions of the applicant, and to file a report of the work done within forty-eight (48) hours of its completion. 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 fee of Two dollars and fifty cents (\$2.50).

(b) The application for an annual permit shall be in a form as prescribed by the City Engineer and shall specify the name and address of the applicant; the date of the application; an agreement to deposit such security as required by the City Engineer, to comply with the provisions of this Ordinance; an agreement to save the City and its employees harmless against any injury or damage as a result of the actions of the applicant, and to file a report of all work done under the permit within (10) ten 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 fee of Two Hundred and Fifty Dollars (\$250.00).

Section 4: SECURITY

Before the issuance of any permit, the City Engineer shall require the applicant to file with him as security either:

- (a) In the event an annual permit is requested, a Surety Bond in the amount of One

ORDINANCE NO. 2735, Cont'd.

Thousand Dollars (\$1,000.00). In the event an application for one particular cut or break in an alley or street, a Surety Bond in the amount fixed by the City Engineer but not to exceed Five Hundred Dollars (\$500.00). This bond may be left on deposit with the City for a period of one year. 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;

(b) In lieu of the Surety Bond above-mentioned, 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 City Engineer, to be held and returned subject to the same conditions as set forth in the case of Surety Bonds.

Provided, however, that in the case of unimproved streets, no security shall be required, unless, in the opinion of the City Engineer, such security is necessary for the protection of the public interest.

Section 5: PERMITS.

If the City Engineer is satisfied that the excavation, cut or tunnel is feasible and proper, that said application has been made in due form, that adequate security has been filed, as required by provision of this Ordinance and upon payment of the permit fee, he 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 City 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 said application and permits, and in a manner approved by the Street Superintendent. 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 City Engineer, his assistants or any Police Officer, said 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; or such work shall be stopped until said permit shall be produced.

Section 8: NOTICE OF COMPLETION OF WORK.

All persons shall, on or before the 10th day of the month following the month in which the cut or excavation was completed, report such completion to the Engineering Department

ORDINANCE NO. 2735, Cont'd.

and report the exact location of the cut or excavation.

Section 9: BARRICADES AND SAFETY MEASURES.

Whenever any person or corporation shall, under authority of this Ordinance or otherwise, place any obstruction in a street or alley or make any excavation therein for any purpose whatsoever, it shall be the duty of such person or corporation to keep said 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 City Engineer. Whenever, in the opinion of the City 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 has been granted shall be responsible for furnishing a night watchman for that purpose.

Section 10: LIABILITY FOR ACCIDENTS.

Every person or corporation having occasion to place any obstruction in any street or alley or to make any 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 Albany, 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.

All persons to whom such permits are 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 City Engineer, but not to exceed one (1) year.

Section 12: OPTION TO CITY TO REPLACE PAVEMENT.

Whenever, in the opinion of the Street Superintendent, it would be to the best interest of the City for the City itself to replace or repair the street surface or pavement cut, damage, tunneled under, or undermined under the provision of this Ordinance, such work shall be done by the City under the direction of the Street Superintendent 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 affecting 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

ORDINANCE NO. 2735, Cont'd.

original permit.

Section 15: PENALTIES.

Any person violating any provision of this Ordinance shall, upon conviction thereof, be punished by a fine of not to exceed Five Hundred Dollars (\$500.00).

Passed by the Council: April 10, 1957

Approved by the Mayor: April 10, 1957

W. F. Zappacosta
Mayor

Effective Date: May 10, 1957

Arthur J. Lusson
Recorder