

ORDINANCE 2015-02

AN ORDINANCE REPEALING AND REENACTING CHAPTER 12.08 OF THE FRUITA MUNICIPAL CODE CONCERNING EXCAVATIONS IN THE RIGHT OF WAY OF CITY STREETS

WHEREAS, the Fruita City Council finds it necessary to update the permit requirements for excavations conducted in the City's right of way to reflect the positions responsible for issuance of said permit, to eliminate the maintenance fee for excavations in the right of way of City streets, and

WHEREAS, the permit fee for issuance, administration and enforcement of the permit for excavations will be removed from the ordinance and established on an annual basis as part of the Annual Fees and Charges Resolution adopted by the City Council.

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

Section 1: Chapter 12.08 of the Fruita Municipal Code, entitled Excavations, is hereby repealed and reenacted to read as follows:

CHAPTER 12.08

EXCAVATIONS

12.08.010 PERMIT REQUIRED -- AUTHORITY -- SUPERVISION OF WORK. All work on any excavation, cut, trench or opening in or under any street, sidewalk, curb, gutter, curb walk, alley or other public place shall be done only on authority of a permit issued by the ~~city-clerk~~ **PUBLIC WORKS DIRECTOR OR HIS DESIGNATED REPRESENTATIVE**, and such work shall be supervised by the Public Works ~~Director~~ **DEPARTMENT**.

12.08.020 PERMIT- SCOPE- WORK SPECIFICATIONS AUTHORITY. It is unlawful or any person, other than the city itself, to excavate, cut, core, open or trench in or under any street, sidewalk, curb, gutter, curb walk, alley or other public place without having first obtained a permit from the city. The Public Works Director shall supervise and prescribe the procedures as outlined in the permit, precautions and specifications under which the excavation work, utility placement, backfilling and resurfacing shall be done, insofar as necessary to protect city interests and property. Any person who knowingly violates any of the provisions of the Section commits a Class B municipal offense.

12.08.030 PERMIT APPLICATION - CONTENTS REQUIRED. Every person desiring to do any of said excavation work shall apply to the ~~city-clerk~~ **PUBLIC WORKS DIRECTOR** for a permit on a form provided by the city, stating the applicant's name, the location, length,

width and purpose of the proposed excavation, the amount of the permit fee, the dates of commencement and projected completion of the work, that the work will be performed in strict compliance with the specifications and procedures established by the Public Works Director, and that the city will be indemnified and held harmless from any and all damages by reason of the work of the permittee.

12.08.040 PERMIT FEE. A PERMIT fee ~~of thirty dollars (\$30)~~ shall be paid to the city prior to the issuance of excavation permits. **THE PERMIT FEE SHALL BE ESTABLISHED BY RESOLUTION OF THE FRUITA CITY COUNCIL.** ~~An asphalt cut maintenance fee of one hundred dollars (\$100) per sixty (60) square feet minimum is to be collected upon completion. An additional one dollar and sixty seven cents (\$1.67) per square foot shall be collected for asphalt cuts in excess of 60 square feet.~~

12.08.050 PERMIT BOND AND INSURANCE REQUIREMENTS. Every person applying for an excavation permit and prior to the issuance thereof shall file a surety bond or have other equivalent bond in effect, good for one year, in favor of the city in the penal sum of five thousand dollars (\$5,000), and conditioned upon the faithful performance of such work in strict compliance with the specifications, rules, regulations and ordinances of the city and within the specified time limits, and that such person will indemnify and save harmless the city against and from any and all damages or claims for damages, loss, costs, charges or expenses that may be brought against it by any person by reason of such work. The applicant shall also produce evidence of general liability insurance coverage for the work with limits of not less than twenty-five thousand dollars.

12.08.060 COMMENCEMENT AND COMPLETION REQUIREMENTS. All work authorized by a permit issued for excavation work shall be commenced within a reasonable time as stated in Section 12.08.070, and shall be diligently and continuously performed until completion. In the event that weather, process of law, or any other unexpected obstacles shall cause work to be stopped for so long a time that public travel shall be unreasonably obstructed, the Public Works Director may order the excavation refilled and repaved as if the work contemplated in the permit were actually completed. Any person who knowingly violates any of the provisions of this Section commits a Class B Municipal Offense.

12.08.070 WIDTH AND INCONVENIENCE LIMITATIONS. No opening or excavation shall be undercut or have a greater width at the bottom than at the top. In no case shall more than one-half of the width of any street, alley or other public place be opened or excavated at any one time, and, in all cases, one-half of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half is restored for safe use. All such work shall be performed in such way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic. After the completion of the work necessitating an excavation, the excavated area shall be refilled and returned as near as possible to its condition prior to the excavation, including the replacement of all pavement, cement or other surface material, within fifteen (15) days. Any filling and replacement done pursuant to this section shall be subject to the inspection and approval of the Public Works Director or his designated representative. The permit granted for an excavation, subject to Section 12.08.050,

shall note on its face that the applicant shall have fifteen days in which to meet the terms of this section.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 17TH DAY OF FEBRUARY, 2015.**

ATTEST:

City of Fruita

City Clerk

Lori Buck, Mayor