

ORDINANCE NO. 106

AN ORDINANCE REGULATING THE USE OF CITY STREETS BY HEAVY EQUIPMENT AND LUG VEHICLES; REGULATING REPAIR OF CONSTRUCTION AND LOGGING EQUIPMENT ON PUBLIC STREETS; REQUIRING PERMITS TO PERFORM EXCAVATIONS WITHIN CITY RIGHT-OF-WAY; PROVIDING A PENALTY; AND REPEALING ORDINANCES NO. 72 AND 82.

Dunes City ordains as follows:

Section 1. Use of Heavy Equipment on Paved Streets.

(1) No person shall use lug equipment on paved or oiled streets.

(2) No person shall load or unload lug equipment on paved or oiled streets. Loading or unloading of lug equipment is permitted on gravel streets. Any damage to streets, including damage to drainage ditches, culverts and other parts of the right-of-way, caused by loading or unloading of lug equipment, shall be repaired within five working days after the damage.

(3) When it is necessary for lug equipment to traverse across an oiled or paved street from one side to the other, the operator of the vehicle shall take preventive measures to insure that the street is adequately protected.

Section 2. Repair and Maintenance of Equipment. No person shall repair, service, or perform maintenance or other similar activities on construction and logging equipment on the streets of the city. *Excepting in an emergency*

Section 3. Excavations in the City Right of Way.

(1) Prior to excavating within a right-of-way dedicated to the public and situated within the city, a person shall obtain a permit from the city recorder's office.

(2) The recorder shall grant or deny a permit within 14 days following submission of a completed permit application. A permit may be denied if the applicant has damaged city streets in the past or has committed past violations of this ordinance or any preceding ordinance regulating construction activities in the city streets. A denial may be appealed to the council in the manner prescribed for a suspension in subsection 6 below.

(3) Any street, surface or adjacent ditches and rights of way disturbed by excavation projects shall be returned to their original condition within 5 working days after work ceases on the project.

(4) The applicant is responsible for identifying the city right-of-way and its location on the site to be excavated. If there is a dispute between adjacent landowners about the exact location of the right-of-way, the city may require the applicant to obtain a survey acceptable to the

city. The city shall have the exclusive right to designate where in the right of way the proposed excavation may occur.

(5) In granting a permit, the city assumes no responsibility for the correctness of the survey or other method used to identify the existence of the right-of-way.

(6) If the applicant varies from the terms of a permit, the rights of the applicant to continue development under the permit may be immediately suspended by the building inspector. The applicant may appeal a suspension by notifying the road committee chairman. Within 24 hours, the road chairman shall notify the mayor of the appeal, or if the mayor is not available, the councilor designated to act in the mayor's behalf. Within five business days of the notice to the mayor, the council will hold a hearing on the appeal. At the appeal, the applicant may appear and offer evidence. The council will render a written opinion stating the basis of its decision, if requested by the applicant at the time of the hearing.

Section 4. Driveways. All driveways in the city shall be constructed or maintained so that they do not form an impediment to natural drainage. They shall have culverts installed to service existing ditches or to provide for future ditches which may be installed by the city. A driveway shall not collect, retain, or back up the flow of surface water and create puddles, marshes, swamps, or any other similar collection of undesirable water on, upon or near city streets and roads. It is the responsibility of the property owner on which the driveway exists to ensure that the driveway complies with the provisions of this section.

Section 5. Permits for Road Construction and Excavation.

(1) No person shall excavate a road, a public or private right-of-way, or any other type of excavation, until a permit is obtained from the city recorder. Within five business days following the submission of a completed application, the city building inspector shall inspect the proposed excavation prior to making a recommendation regarding its approval. Notwithstanding the inspection provided for by this section, it is the sole responsibility of the applicant or applicants to ensure that the excavation complies with all applicable law.

(2) If excavation is to be undertaken in conjunction with another project that requires a city building permit, the applicant is not required to obtain the excavation permit required by this section. However, noncompliance with this ordinance shall be grounds for denial or suspension of the other permit issued by the city.

Section 6. Enforcement. If the council determines that a violation of this ordinance may exist, it shall direct a member of the road committee to inspect the site and determine whether there is a violation. The member

shall prepare a list of suggested steps necessary to correct the deficiency. If the member reports that a nuisance exists, the road committee may direct the applicant and contractor to abate the nuisance by taking action suggested by the inspector. If an agreement is not reached regarding the appropriate remedy of the situation, the nuisance may be abated pursuant to the city ordinance regarding nuisances.

Section 7. Penalty. A violation of a provision of this ordinance is punishable by a fine not to exceed \$500. Each day that a violation continues shall be a separate violation. Imposition of a penalty pursuant to this section shall not preclude the city from using the nuisance abatement process described in section 6.

Section 8. Repeal. Ordinance No. 72, enacted January 14, 1982, and Ordinance No. 82, enacted November 10, 1983, are repealed.

Passed by the City Council of Dunes City, Lane County, Oregon, this 11th day of December, 1986, by the following vote:

Aye 6 Nay 0 Absent 1

APPROVED BY THE MAYOR THIS
15th DAY OF December, 1986.


JAMES E. BAUMEISTER, Mayor

ATTEST:


BETTY STOCKING, City Recorder