

FILED

APR 5 1978

ALBERTA M. BRYANT
County Clerk

Edward Harrington
Deputy

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR THE COUNTY OF LINCOLN

Ordinance No. 82

AN ORDINANCE PROVIDING TERMS AND CONDITIONS FOR POLE LINE, BURIED CABLE, PIPE LINE, NON-COMMERCIAL SIGNS AND MISCELLANEOUS OPERATIONS AND FACILITY PERMITS, AND DECLARING AN EMERGENCY.

SECTION I: DEFINITION OF TERMS

- A. County means Lincoln County, Oregon.
- B. Engineer means the County Engineer or his duly authorized representative.
- C. Applicant means the corporation, company, firm, business, partnership, individual or individuals named in the permit, or the agents, employees, representative or contractors thereof.
- D. Pole line means any poles, wires, guys, anchors or related fixtures authorized in the permit.
- E. Buried cable means any cables, wires, conduit, pedestals or related fixtures authorized in the permit.
- F. Pipe line means any and all pipe lines, hydrants, valve boxes, man holes, conduits or related fixtures authorized in the permit.
- G. Sign means any and all signs and related fixtures authorized in the permit.
- H. Miscellaneous facility means the facility authorized in the permit, other than pole line, buried cable, pipe line or sign.
- I. Miscellaneous operations means the performance of miscellaneous operations as described in the permit.
- J. Special provisions means those provisions shown under the heading "Special Provisions" in the permit.

Lincoln County Engineer
Lincoln County Courthouse, room 201
225 W. Olive Street
Newport, OR 97365
Phone: 363-5341 ext. 265

1 SECTION II: PERMITS

2 A. Any person seeking to use a County road right-of-way for
3 a pole line, buried cable, pipe line, sign, miscellaneous facility
4 or miscellaneous operation shall apply for and obtain a permit from
5 the County before commencing any construction or activity on a
6 County road right-of-way.

7 B. All permits issued pursuant to this ordinance shall be
8 subject to the provisions of this ordinance and any special pro-
9 vision imposed by the County. In the case of conflict between the
10 general provisions of this ordinance and special provisions in the
11 permit, the special provision shall control.

12 SECTION III: ALLOCATION OF COSTS

13 A. The entire cost of installing, maintaining, repairing,
14 operating or using the pole line, buried cable, pipe line, sign or
15 miscellaneous facility; of performing miscellaneous operations; and
16 of any other expense incident to the facilities or operations
17 authorized by the permit shall be paid by the applicant.

18 B. The applicant shall, in addition to Section II-A above,
19 reimburse the County for any reasonable and necessary expenses that
20 the County may incur in connection with the facilities or opera-
21 tions authorized by the permit. The reimbursement of the County
22 shall be made by the applicant within ten (10) days after receiving
23 a statement from the Engineer.

24 SECTION IV: LIABILITY AND CONTROL

25 A. The applicant shall indemnify and hold harmless the County,
26 Board of Commissioners and all officers, employees or agents of the

1 County against all damages, claims, demands, actions, costs and
2 expenses which may result from any injury to or the death of any
3 persons or from the loss of, or damages to, property of any kind
4 or nature, including the road and road facilities or structures,
5 property or equipment used or owned by the County or the County
6 Road Department, and facilities which now or may hereafter occupy
7 the right-of-way of the said road, when such injury, death, loss or
8 damage arises out of the construction, installation, maintenance,
9 repair, removal, relocation, operation or use of the pole line,
10 buried cable, pipe line, sign or miscellaneous facility covered by
11 the permit or out of miscellaneous operation authorized by the
12 permit.

13 B. The County, it's officers or employees shall not be held
14 responsible or liable for injury of damage that may occur to
15 facilities covered by the permit or any connection or connections
16 thereto by reason of road maintenance and construction operations
17 or resulting from motorist or road user operations or road con-
18 tractor or permittee operations.

19 C. The applicant shall employ methods in performing the
20 operations authorized by the permit which the Engineer may require
21 in order to properly protect the public from injury and the road
22 from damage.

23 D. During the initial installation or construction of the
24 facilities authorized by the permit, or during any future repair,
25 removal or relocation thereof, or during any miscellaneous opera-
26 tions; the applicant shall at all times maintain such flagmen,

1 signs, lights, flares, barricades and other safety devices as the
 2 Engineer may reasonably deem necessary to properly protect traffic
 3 upon the road, and to warn and safeguard the public against injury
 4 or damage. The applicant shall maintain watchmen as required to
 5 maintain said signs, lights, flares, barricades and other safety
 6 devices during non-work hours, and the Engineer may request and be
 7 furnished the telephone number and address of such watchmen.

8 E. The applicant shall conduct his operations so that there
 9 will be a minimum of interference with or interruption of traffic
 10 upon and along the road. Except in emergencies there shall be no
 11 interference with or interruption of traffic upon and along the
 12 road until a plan for the satisfactory handling of traffic has been
 13 worked out and approved by the Engineer. In emergencies the appli-
 14 cant shall notify the Engineer as soon as possible.

15 F. All traffic control and safety devices used for protection
 16 of the work areas shall conform to the current provisions of the
 17 "Oregon Manual on Uniform Traffic Control Devices, Technical
 18 Bulletin No. 28".

19 G. To insure compliance with the terms and conditions of the
 20 permit, the County reserves the right to inspect the job during
 21 such periods as the Engineer deems necessary to check compliance
 22 with the terms of this permit by the applicant and to require the
 23 applicant to correct all deviations from those terms and conditions.
 24 The cost of such inspection shall be paid by the applicant under the
 25 terms outlined in Section III-B of these General Provisions.

26 The applicant shall at all times maintain such

1 H. Any supervision and control exercised by the Engineer
 2 shall in no way relieve the applicant of any duty or responsibility
 3 to the general public, nor shall such supervision and control
 4 relieve the applicant from any liability for loss, damage or injury
 5 to persons or property as provided in Section IV-A of these General
 6 Provisions.

7 I. The decision of the Engineer shall be final with respect
 8 to any of the conditions, terms, stipulations and provisions of
 9 the permit. This shall not foreclose applicant's right of appeal.

10 J. Notice must be given to the Engineer at least two (2)
 11 working days prior to commencement of actual construction under a
 12 permit issued pursuant to this ordinance.

13 SECTION V: INSURANCE AND BOND

14 A. When requested in writing by the Engineer, the applicant
 15 or his contractor shall obtain and carry, for the period of time
 16 required for the complete installation of the facilities authorized
 17 by the permit, including the repair and restoration of the road
 18 facilities, and also during such future periods of time when opera-
 19 tions are performed involving the repair, relocation or removal of
 20 said facilities authorized by the permit, a liability and property
 21 damage insurance policy or policies providing the coverage against
 22 any claim, demand, suit or action for property damage, personal
 23 injury or death resulting from any activities of the applicant, his
 24 officers, employees, agents or contractors in connection with the
 25 construction, installation, repair or removal of the said facilities
 26 authorized by the permit and the repair and restoration of the road

1 facilities, and the said policy or policies, in addition, shall
2 include as named insureds the County, it's officers, agents and
3 employees, except as to claims against the applicant, for personal
4 injury to any officers, agents and employees of the County or
5 damages to any County property. The said insurance shall provide
6 coverage in the following amounts: \$50,000.00 for property damage
7 resulting from any single occurrence, and \$100,000.00 for the death
8 or injury of any person, subject to a limit of \$200,000.00 for
9 injuries or deaths resulting from any single occurrence. The said
10 insurance policy or policies shall be in an insurance company duly
11 authorized and licensed to do business in the State of Oregon. A
12 copy of the policy or policies, or a certificate evidencing the
13 same, shall be submitted to the Engineer and approved by him before
14 any work is commenced under this permit.

15 B. When requested in writing by the Engineer, the applicant
16 or his contractor shall furnish for the period of time required for
17 the complete installation of the facilities authorized by the
18 permit, including the repair and restoration of the road facilities,
19 and also during such future periods of time when operations are
20 performed involving the repair, relocation or removal of said
21 facilities authorized by the permit, a bond or cash deposit in the
22 amount specified in the Special Provisions of the permit. If a
23 bond is furnished, it must be written by a surety company duly
24 qualified and licensed to do business in the State of Oregon and in
25 a form satisfactory to the Engineer. No work shall be commenced
26 under the permit until the said bond has been submitted to and

1 approved, or the said cash deposit has been received, by the
2 Engineer.

3 SECTION VI: CONSTRUCTION AND LOCATION DETAILS

4 A. The applicant shall submit with his permit applicant
5 prints of adequate drawings or sketches showing in detail the
6 location of the proposed facility or operation as described in the
7 permit application with respect to existing and planned road im-
8 provement, the traveled way, the right-of-way lines and, where
9 applicable, the access control lines and approved access points.

10 1. When attachment to a road structure is involved,
11 details of the attachment method shall be included.

12 2. When the proposed facility involves pressure pipe-
13 lines, the following additional data is required:

- 14 a. design pressure of pipe.
15 b. normal operating pressure.
16 c. maximum operating pressure.

17 B. The applicant's completed facility shall be in substantial
18 conformance with the drawings or sketches referred to in Section VI-
19 A above, unless special permission is obtained from the Engineer to
20 vary from same during installation. When such permission is ob-
21 tained applicant shall furnish the Engineer four sets of "as con-
22 structed" drawings or sketches detailing any such variances.

23 C. All work in connection with the facility authorized by
24 the permit shall be done in a neat and workmanlike manner to the
25 entire satisfaction of the Engineer, and the details of construction
26 of the same shall conform to the established rules and regulations.

1 now in effect or which may hereafter be put in effect by the
 2 Public Utility Commissioner of the State of Oregon, the Oregon
 3 State Board of Health or other governmental agencies having regu-
 4 latory authority over said facility.

5 In the event the above agencies do not prescribe standards
 6 which provide the degree of protection substantially equal to the
 7 following industry codes, then the appropriate industry codes shall
 8 apply:

9 1. United States of America Standards Institute
 10 10 East 40th Street
 11 New York, New York 10016

12 a. USAS B 31.1.0 -- Current Issue -- Power Piping
 13 Systems.

14 b. USAS B 31.3 -- Current Issue -- Petroleum
 15 Refinery Piping.

16 c. USAS B 31.4 -- Current Issue -- Liquid Petroleum
 17 Transportation Piping Systems.

18 d. USAS B 31.8 -- Current Issue -- Gas Transmission
 19 and Distribution Piping Systems.

20 2. American Petroleum Institute
 21 1271 Avenue of the Americas
 22 New York, New York 10020

23 API RP 1102 -- Current Issue -- Recommended
 24 Practice for Liquid Petroleum Pipelines Crossing
 25 Railroads and Highways.

26 3. American Water Works Association
 2 Park Avenue
 New York, New York 10016

AWWA Standards and Specifications -- Current Issue.

4. National Bureau of Standards
 U. S. Department of Commerce

for sale by: Superintendent of Documents
 U. S. Government Printing Office
 Washington, D. C. 20401

- 1 a. National Electric Safety Code -- Current Issue.
2 b. Safety Rules for the Installation and Maintenance
3 of Electric Supply and Communication Lines --
4 Current Issue.

5 D. Corrugated Metal Pipe and Concrete Pipe used as a conduit
6 or casing pipe or a gravity flow carrier pipe shall, as a minimum,
7 conform to requirements of the current issue of "State of Oregon,
8 Standard Specifications for Highway Construction". Smooth iron or
9 steel pipe used as a conduit or casing pipe shall be the standard
10 type used for pressure pipe.

11 E. No trench shall be excavated with a top width in excess
12 of eighteen (18) inches more than the outside diameter of the pipe,
13 conduit or cable to be installed unless permission is first ob-
14 tained from the Engineer.

15 F. The back filling of all trenches and tunnels must be
16 accomplished immediately after the facility authorized by the per-
17 mit has been placed therein and must be well tamped and fully
18 compacted so as to allow the least possible amount of subsequent
19 settlement.

20 G. All debris, refuse and waste of all kinds which may have
21 accumulated upon the road right-of-way by reason of the operations
22 of the applicant shall be removed immediately upon completion of
23 the said operations, and the said road right-of-way must be
24 restored to at least as good condition as it was prior to such
25 operations.

26 H. Unless special permission is first obtained from the
Engineer to open cut, pipe line or conduit which crosses under the

1 surfaced portion of the road, including shoulders, road or street
 2 connections or road approaches or driveways shall either be
 3 tunneled, jacked or driven or placed in a hole bored under the
 4 surface for that purpose in accordance with the following provi-
 5 sions:

6 1. Trenching in connection with any of these methods
 7 shall be no nearer the toe of the fill slope in fill sections or
 8 the point where the outer edges of the surfacing meets the subgrade
 9 in other sections than specified in the Special Provisions.

10 2. If the tunneling method is used it shall be by an
 11 approved method which supports the surrounding materials so as to
 12 prevent caving or settlement. Areas around the installed pipe or
 13 conduit shall be backfilled with moist sand, granular material or
 14 cement grout filling all voids and packed in place with mechanical
 15 tampers or other approved devices. Lagging, bulkheading and tim-
 16 bering shall be removed as the backfilling progresses.

17 3. When the jacking or driving, or boring, method is
 18 used, it shall be by approved means which will hold disturbances of
 19 surrounding material to a minimum. Sluicing and jetting is not
 20 permitted. Voids or displacement outside the outside perimeter of
 21 the pipe, conduit or cable where greater than 0.1 foot, shall be
 22 filled with sand or cement grout packed in place.

23 4. When special permission is granted to open cut the surfaced
 24 portion of the road, the following provisions shall be adhered to:

25 a. The trench edges in paved areas shall be sawed or cut
 26 to neat lines by methods satisfactory to the Engineer to a depth

1 sufficient to permit removal of pavement without damage to pavement
 2 to be left in place. Pavement within the cutting limits, together
 3 with all other excavated material, shall be removed and disposed
 4 of outside road right-of-way.

5 2. In trenching across the road, no more than one-half
 6 ($\frac{1}{2}$) of the traveled way is to be opened at one time. The opened
 7 half shall be completely backfilled before opening the other half.

8 3. Closure of intersecting streets, road approaches or
 9 other access points will not be permitted. Upon trenching across
 10 such facilities, steel running plates, planks or other satisfactory
 11 methods shall be used to provide for traffic to enter or leave the
 12 road or adjacent property.

13 4. No more than three hundred (300) feet of trench
 14 longitudinally along the road shall be open at one time and no
 15 trench shall be left in an open condition overnight.

16 5. Immediately after the facility authorized by the
 17 permit has been placed in the trench, the trench shall be back-
 18 filled with compacted granular material, commonly designated as
 19 pervious material, which cannot be ribboned out between the finger
 20 and thumb and which is free of humus, organic matter, vegetable
 21 matter, frozen material, clods, sticks and debris and contains no
 22 stones having a dimension greater than three (3) inches. Said
 23 granular material shall be placed to an elevation which will allow
 24 placing the following foundation material and wearing surface:

25 a. Where original surface was asphalt concrete or
 26 bituminous treatment or mixture to the Engineer to a depth

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 Lincoln County Courthouse, room 201
 225 W. Olive Street
 Newport, OR 97345
 Phone: 265-5341 ext. 245

1 1. Wearing surface -- Asphalt concrete placed
2 to a compacted thickness of 4" or the thick-
3 ness of the removed pavement, whichever is
4 greater.

5 2. Foundation material -- Either 1" - 0" or
6 3/4" - 0" aggregate placed to a compacted
7 thickness of the removed stone base, which-
8 ever is greater.

9 b. Where original surface was crushed rock or
10 gravel:

11 1. Wearing surface and foundation material --
12 Either 1" - 0" or 3/4" - 0" aggregate placed
13 to a total compacted thickness of 4" or the
14 thickness of the removed stone base and
15 wearing surface, whichever is greater.

16 c. All materials in "a" and "b" above and their
17 placement shall conform to the requirements of the current Oregon
18 State Highway Standard Specifications for Highway Construction.

19 6. For a period of one year following the patching of
20 the paved surface, the applicant shall be responsible for the con-
21 dition of said pavement patches, and during that time shall, upon
22 request from the Engineer, repair to the Engineer's satisfaction
23 any of the said patches which become settled, cracked, broken or
24 otherwise faulty.

25 J. Unless special permission is first obtained from the
26 Engineer, direct burial of cable placed by the ploughing method

1 shall be limited to areas outside the surfaced portion of the road.

2 K. Standard warning signs for buried power or communications
 3 cable and for pipelines carrying gas or flammable liquids shall be
 4 placed at each crossing under the road and at intervals along longi-
 5 tudinal installations as required by current PUC Order, or as speci-
 6 fied by the Engineer.

7 1. Signs shall be offset as near the right-of-way line
 8 as practical.

9 2. Signs for installations located within the roadbed
 10 may be placed behind existing guard rail.

11 L. Pedestals installed as part of a buried cable installation
 12 are to be located one foot from the right-of-way line unless
 13 special permission is obtained from the Engineer to locate else-
 14 where. In no case shall the pedestals be located within the road
 15 maintenance operating area, including mowing operations, or nearer
 16 the pavement edge than any official highway sign in the same
 17 general location.

18 M. The buried cable or pipe depth shown on the permit form
 19 represents the distance from the top of the surface or ground line
 20 to the top of the cable or pipe.

21 N. It is strictly forbidden to spray with selective herbi-
 22 cides, cut or trim trees or shrubs growing on the road right-of-way
 23 unless and until written permission and instructions to do so have
 24 first been obtained from the County.

25 SECTION VII: REMOVAL, RELOCATION OR REPAIR

26 A. The permit is issued subject to the County directing the

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 225 W. Olive Street
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1 applicant to remove, relocate or repair the pole line, buried
2 cable, pipe line, sign or miscellaneous facility covered by the
3 permit at the sole cost of the applicant.

4 B. Upon receiving written notice from the Engineer to remove,
5 relocate or repair the said pole line, buried cable, pipe line,
6 sign or miscellaneous facility, the applicant shall with 30 days
7 make arrangements for the removal, relocation or repair of same,
8 at his sole cost, in accordance with said written notice and in-
9 structions received from the Engineer. Before commencing said
10 removal, relocation or repair, the applicant shall furnish such
11 insurance and post such bond as the Engineer may consider necessary
12 at that time in the manner provided for in Section V-A and B of
13 these General Provisions.

14 C. Should the applicant fail to remove, relocate or repair
15 the said pole line, buried cable, pipe line, sign or miscellaneous
16 facility as provided in Section VII-B above, the Engineer may
17 remove, relocate or repair same and submit a statement of total
18 costs for this work to the applicant. Applicant, upon receiving
19 said statement, will immediately, or within a period of time agreed
20 upon between the applicant and Engineer, pay to the County the full
21 amount of said removal, relocation or repair costs. The applicant
22 agrees, in the event he fails, as provided in this paragraph, to
23 pay the said costs incurred by the County for the removal, reloca-
24 tion or repair of the said pole line, buried cable, pipe line, sign
25 or miscellaneous facility covered by the permit, and it becomes
26 necessary for the County to commence an action or proceeding in a

1 court of competent jurisdiction to recover the said removal, relo-
 2 cation or repair costs that the County shall be entitled to recover
 3 in addition to the statutory court costs and disbursements, such
 4 additional sums as the court may adjudge reasonable for attorney's
 5 fees to be allowed in such action or proceeding.

6 SECTION VIII: MAINTENANCE AND OPERATION

7 A. Applicant shall, at all times, keep facilities authorized
 8 by the permit in a good state of repair, both structurally and, in
 9 the case of non-commercial signs, from the standpoint of appearance.

10 B. In the event it is planned to raise the operating pressure
 11 for existing pressure pipe lines covered by permit above the "maxi-
 12 mum operating pressure" shown in said permit, application for a new
 13 permit or an amendment to the existing permit is required.

14 C. In the event it is planned to install additional conductors,
 15 or replacement conductors of a higher capacity, on an existing
 16 aerial pole line covered by permit, application for a new permit or
 17 an amendment to the existing permit is required.

18 SECTION IX: OTHER AGENCIES

19 A. Nothing in a permit issued pursuant to this ordinance is
 20 intended to grant rights or imply approval in areas not falling
 21 within the authority and jurisdiction of the County. It is the
 22 responsibility of the applicant to determine the need for and to
 23 obtain such licenses, permits, or other form of approval which may
 24 be required by State Agencies, Federal Agencies, Cities, Utility
 25 Companies and railroads.

26 B. If the section of road covered by the permit is located

1 within a National Forest, considering that Lincoln County does not
 2 generally have any further rights across National Forest land than
 3 an easement for road purposes, the permit extends only to such
 4 rights as Lincoln County has acquired and may therefore properly
 5 give. For National Forest lands where the utility constitutes a
 6 servitude on the property of the United States in addition to the
 7 rights of the County, a permit from the Forest Service must be
 8 obtained before a road occupancy permit will be issued. Unless the
 9 applicant has conclusive evidence that the rights of the United
 10 States, in any National Forest land crossed by the road right-of-
 11 way, will not be invaded by the facility covered by this permit,
 12 application for a permit should be made to the Supervisor of the
 13 National Forest in which the facility is to be located.

14 SECTION X: EFFECTIVE PERIOD OF PERMIT

15 A. Unless otherwise provided in the Special Provisions, the
 16 permit shall be in effect for an indefinite period of time from
 17 and after the date issued, unless sooner revoked by the County or
 18 Engineer for failure of the applicant to abide by the terms and
 19 conditions of the permit, or by operation of the law, or at the
 20 time the utility for which the permit is issued ceases operation.

21 B. Failure of the applicant within a reasonable time after
 22 written notice from the Engineer to comply with any of the terms
 23 and conditions of the permit shall be sufficient cause for cancel-
 24 lation of the permit.

25 C. The permit and the privileges granted and the obligations
 26 of permittee created thereby shall be binding upon the successors

1 and assigns of the permittee. Permittee shall give the Engineer
2 written notice of any such assignment or transfer within a reason-
3 able time thereafter.

4 D. If the applicant fails to commence installation of the
5 pole line, buried cable, pipe line, sign or miscellaneous facility
6 covered by the permit within twelve (12) months from the date the
7 permit is issued, said permit shall be deemed null and void and all
8 privileges thereunder forfeited, unless a written extension of time
9 is obtained from the Engineer.

10 SECTION XI: ENGINEER ISSUANCE OF PERMITS

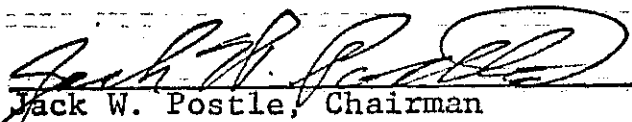
11 The Engineer may issue all permits provided for by this
12 ordinance. If the Engineer, in his discretion, determines that a
13 permit is of more than routine significance he may refer the permit
14 to the County Board of Commissioners for final approval.

15 SECTION XII: EMERGENCY CLAUSE

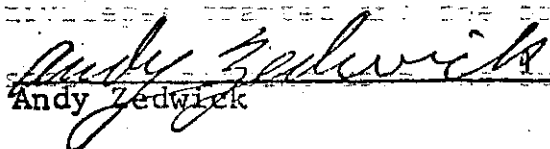
16 That this Ordinance being necessary for the immediate pre-
17 servation of the public peace, health and safety, an emergency is
18 declared to exist, and this Ordinance takes effect on it's adoption.

19 DATED this 5th day of April, 1978.

20 LINCOLN COUNTY BOARD OF COMMISSIONERS

21 
22 Jack W. Postle, Chairman

23 
24 Albert R. Strand

25 The permit and the privileges created by the ordinance
26 of permittee created thereby 
Andy Zedwick

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