

# City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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## CHAPTER 1997-64

No. 629      **AN ORDINANCE** IN AMENDMENT AND IN  
ADDITION TO CHAPTER 23 OF THE  
CODE OF ORDINANCES OF THE CITY OF  
PROVIDENCE, AS AMENDED.

*Approved* November 3, 1997

*Be it ordained by the City of Providence:*

Section 1. Preamble. The public safety and convenience require both the installation and maintenance of utility services and the maintenance of safe and aesthetically pleasing roadways and sidewalks. These requirements, unfortunately are sometimes in tension. Safe streets and sidewalks are unquestionably necessary and aesthetically pleasing highways are highly desirable. The public, though, has the right to expect the availability and delivery of both existing and improved or new utility services. Such delivery and availability are to be provided; but must be provided in a safe and sound manner.

The City seeks to allow the delivery of the expected services yet ensure public safety and the quality of life to which the city's citizenry is entitled. That goal requires the balancing of two important dynamics. The City seeks to promote the prompt and safe delivery of old and new services without sacrificing the peoples' safety and convenience.

Section 2. No person, firm or corporation shall in any manner make any opening or excavation on, in, upon or under nor lay any pipe, wire, line or conduit, cable or the like, on, in, across or under any public roadway or sidewalk in the city nor upon any public lands (the jurisdiction over which is not legally reserved to another municipal department) without the prior written consent of the Director of Public Works or his or her designee.

No.

## CHAPTER

AN ORDINANCE IN AMENDMENT  
AND IN ADDITION TO CHAPTER 23  
OF THE CODE OF ORDINANCES OF  
THE CITY OF PROVIDENCE

IN CITY COUNCIL

*May 15 1897*

FIRST READING

REFERRED TO COMMITTEE ON  
PUBLIC WORKS

*Michael R. Clement* CLERK

THE COMMITTEE ON

*Public Works*  
Recommends

*Barth A. Fairies*  
Clerk

*3/12/96*

*5-28/97*

*8/25/97*

*2/5/97*

*Councilman Clark (By request)*

THE COMMITTEE ON  
PUBLIC WORKS

Approves Passage of  
The Within Ordinance

*Barth A. Fairies*  
Clerk

*10/6/97*

Section 3. No person, firm or corporation shall in any manner place or cause to be placed any sign, equipment, tables, chairs nor any structure, post or footing on, in upon or under any roadway or sidewalk in the City, nor on, in, upon or under any public land (the jurisdiction over which is not legally reserved to another municipal department) without the prior written approval of the Director of Public Works or his or her designee.

Section 4. The Director shall promulgate such rules and regulations as may be necessary to effect the purpose of this ordinance. The Director shall also provide suitable documents to give effect to this ordinance.

Section 5. Sidewalk excavation permits shall be issued only to the record owner of that real estate abutting the sidewalk to be repaired or replaced. Permits required for such intrusion onto the sidewalk shall also be issued only in the name of the record owner of the real estate abutting the sidewalk at which the requested intrusion shall take place; provided, however that the occupant of the realty abutting said sidewalk may be issued such permit in the event that the record owner of the realty grants said abutter authority to apply for such permit.

Permits for the installation of any pipe, wire, line, conduit, cable or the like under any roadway or sidewalk shall be issued only to the owner of said wire, line, conduit, cable or the like. Said permits are distinct from roadway excavation permits. Permits for roadway excavation for the installation of any pipe, wire line, conduit, cable or the like shall likewise be issued in the owner's name only.

Section 6. No permit shall be issued without payment of the following:

### Administrative and Engineering Fee

\$40.00	50 Square feet or less excavations
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\$40.00 + X (\$0.25/sq.ft.) Over 50 foot excavations

Where "X" is the total square feet above 50 feet.

\$40.00	Sidewalks only
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Pavement Degradation Index Fee

\$1.00/sq. ft	Streets 1 year old or less
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\$0.75/sq. ft. Streets 2 years old or less

\$0.50/sq. ft                      Streets 3 years old or less

\$0.25/sq. ft. Streets Over 3 years old.

Note that each Administration and Engineering Fee and the Pavement Degradation fee shall be assessed for each pavement excavation permit while only the Administration and Engineering Fee will be assessed for sidewalk permits.

Section 7. Every applicant for a sidewalk or roadway opening permit or for the placement of any item or object on, in or under any sidewalk or roadway shall provide appropriate maps and/or sketches in the manner the director may designate, and shall in writing affirm his/her compliance with applicable federal, state and local law, ordinance rule and regulation.

Section 8. Any appreciable deviation from the plans approved by the Director or his designee shall operate to cancel said permit. In the event that such deviation occurs, the Director may issue an immediate cease and desist order. The Director shall, upon issuance of such order, schedule a hearing, if one is sought by the permittee, within 48 hours. Such cease-and-desist order shall be deemed effective when the same is delivered to the "site foreman" or, there being no site foreman, to any individual engaged in the work at the site. The Director shall, by telephone or fax, notify the contact person listed as such on permittee's application. Any person who fails to comply immediately with such an order shall be in violation of this Code and if found guilty, shall be punished under Section 1-10.

Section 9. Every police officer detailed to an excavation under these ordinances shall, upon his/her arrival at such location, ascertain or confirm the existence of a roadway or sidewalk opening permit. In the event no such permit exists, the officer shall notify the Department of Public Works, Division of Engineering, and shall assist to effect any cease-and-desist order which may issue.

Section 10. Any excavation undertaken in or upon any public highway shall be designed and signed consistent with National Highway Traffic Safety rules and regulations. Each applicant shall, in his/her/its application, designate such precautions and any failure to meet said standards shall operate to terminate any permit. In such event, a hearing substantially similar to that required under Section 8 shall be provided upon request.

Section 11. No person shall be issued a road or sidewalk opening permit until such time as applicant or his/her/its contractor shall post a performance

bond in an amount not less than \$100,000.00 or in such greater or lesser amount as the Director may require based upon all relevant circumstances.

Section 12. So-called "keyhole" cutting, while permitted, shall require reconstruction as if the same were a trench cut.

Section 13. No person shall be issued a road or sidewalk opening permit unless he or she or his or her contractor has secured a general liability policy in an amount not less than \$500,000.00. Such policy shall contain an endorsement extending such coverage to the City of Providence, its officers, employees and servants.

Section 14. The Director or his/her designee shall review all applications for the installation or laying of any pipe, wire, line, conduit, cable or the like in or under any sidewalk or roadway. The Director shall, in the exercise of his judgment, allow or disallow such application. The Director's determination shall be based upon a consideration of the totality of the circumstances surrounding such proposal. He or she shall assign significant weight to the fact that such wire, pipe, conduit, etc. is already in place. The Director shall confirm that all rules, regulations, ordinances and laws are complied with. He or she shall also especially weigh and seek to ensure that:

- a. the public safety is met;
  - b. inconvenience to the public is minimized in all reasonable manner;
  - c. both the structural integrity of roadways and sidewalks is maximized;
- and
- d. installations are made in an orderly manner so as to allow the safe and ready maintenance of such installations.

Section 15. Whenever any sidewalk is repaired or replaced, it shall be repaired or replaced with in-kind material. Provided, however, that in the event that no paved sidewalk exists, the Director shall specify the "like" material to be used (depending upon the material excavated) and provided further that any sidewalk composed of asphalt, macadam or the like may be replaced by the applicant with cement or concrete.

Section 16. When the public safety convenience and convenience so requires, the Department of Public Works may institute moratoriums of limited duration on road excavation, cold and hot patching, installation of cables, conduit wire, etc. and the issuance of permits of any kind.

Section 17. This enactment shall operate to repeal or modify any ordinance or regulation inconsistent herewith. It shall not so operate when the enactments may be read harmoniously.

(a) Such repeal shall include, but not be limited to, the following sections under Chapter 23 of the Code of Ordinances:

Sections 6, 59, 62, 100, 101, 102,  
103, 104, 105, 106.

Section 18. This Ordinance shall take effect upon its passage.

IN CITY COUNCIL  
OCT. 9, 1997  
FIRST READING  
READ AND PASSED

Michael R. Clement CLERK

IN CITY  
COUNCIL  
OCT 23 1997  
FINAL READING  
READ AND PASSED

Paul J. Targnoli PRESIDENT  
Michael R. Clement CLERK

