

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

ordinance/strtopng3

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

Barbara A. Fairman 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**

Barbara A. Fairman Clerk

10/6/97

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

Emilio J. Fargnoli
PRESIDENT
Michael R. Clement
CLERK

APPROVED
NOV 3 1997
Vincent A. Cianci
MAYOR