

**ORDINANCE NO. 20-014**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DIXON  
AMENDING CHAPTER 1, ENCROACHMENTS OF TITLE 13, STREETS,  
SIDEWALKS AND PUBLIC PLACES, OF THE DIXON MUNICIPAL CODE**

**WHEREAS**, the City of Dixon ("City") is a municipal corporation incorporated, organized and existing pursuant to the California Constitution, the Government Code, and the Dixon Municipal Code; and

**WHEREAS**, under the police power enumerated in the California Constitution, a city may make and enforce within its limits all local ordinances and regulations promoting public peace, safety, morals, health and welfare so long as not in conflict with general laws; and

**WHEREAS**, the concept of public welfare a city's police power is broad and inclusive. Under its police power a city may enact reasonable regulations to operate and maintain its transportation system; and

**WHEREAS**, the police power has long been used to regulate encroachments into the public right-of-way;

**WHEREAS**, excavation into the street pavement degrades the structural integrity of the City's roadway asset;

**WHEREAS**, the Dixon City Council ("City Council") finds an ordinance establishing a street cut moratorium advances the public welfare by regulating excavations into the City's roadway assets.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DIXON DOES  
ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 13.01.010, *Definitions*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby amended to read as follows:

13.01.010 Definitions.

- A. The term "street" includes all or any part of the entire width of right-of-way of a City street, whether or not such entire area is actually used for street purposes.
- B. The term "encroachment" includes any structure or object of any kind or character placed, without the authority of law, either in, on, under or over any street or City property. The term "encroachment" also includes any work or action which requires the issuance of an encroachment permit pursuant to DMC 13.01.020 and 13.01.030.
- C. The term "City property" includes any publicly owned building, structure, or park; or any public street, right-of-way, alley, sidewalk or walkway. [Ord. 12-004.]

- D. The term "Excavation Influence Area" means the area that is impacted by the excavation as determined by the City Engineer.
- E. The term "Excavator" means a person or party excavating within the public right-of-way.
- F. The term "Moratorium Street" means any street, or portion thereof, that has been reconstructed or resurfaced in the preceding five year period or slurry sealed in the preceding three year period.
- G. The term "Non-Linear Excavation" means an excavation of no more than eighteen inches (18") around substructures required to access existing facility, such as a manhole or vault or an excavation to access a utility pipe, conduit, fitting, or other appurtenance.
- H. The term "Public right-of-way" means public easements or public properties that are or may be used for streets, alleys, or other public purpose.
- I. The term "Public Utility" means wet utilities and dry utilities that provide service to the public or any portion thereof. It also includes any City Department and utilities defined in California Public Utilities Code Section 216. It includes their agents, assigns, successors, contractors, subcontractors, employees or representatives.
- J. The term "Trenchless Technology" means any method, material, equipment, technique, or combination thereof that can be used to install, replace, renew or repair underground infrastructure with minimal surface disturbance. Trenchless Technology includes drilling, auguring, boring and tunneling.

**SECTION 2.** Section 13.01.020, *Construction in public rights-of-way – Encroachment permit required – Performing work or depositing material in right-of-way*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby amended to read as follows:

Section 13.01.020, Construction in public rights-of-way – Encroachment permit required – Performing work or depositing material in right-of-way

No person shall, in any manner, do or cause any work to be done or deposit any material in the public right-of-way without first obtaining an encroachment permit from the Director of Public Works.

Such work shall include, but is not limited to, sidewalk removal and replacement, curb and gutter removal and replacement, pavement removal and replacement and underground utility installation or repair.

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Adequate safeguards to the public shall include, but are not limited to: barricades and warning illumination shall be maintained on the work site by the person doing the work at all times. The adequacy of the safeguards required shall be determined by the Director of Public Works. [Ord. 12-004.]

**The provisions of this chapter shall not prevent any person from maintaining any pipe or conduit lawfully on or under any public street, or from making an excavation, as may be necessary for the preservation of life or property when an urgent necessity therefor arises during the hours the offices of the city are closed, except that the person making an emergency use or encroachment on a public street shall apply for a permit therefor within two calendar days after the offices of the city are again opened.**

**SECTION 3.** Section 13.01.030, *Construction in public rights-of-way – Repair or replacement of improvements – Deposits required*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby amended to read as follows:

13.01.030 Construction in public rights-of-way – Repair or replacement of improvements – Deposits required.

No person shall begin to construct, reconstruct, repair, alter or grade any improvement, including but not limited to pavement, sidewalk, curb and gutter or driveway, within a public right-of-way without first obtaining an encroachment permit.

The encroachment permit shall not be issued until adequate funds, as determined by the Director of Public Works, are deposited with the City Clerk by the applicant to ensure that all improvements removed or damaged during the permitted operation are repaired or replaced in a manner satisfactory to the Director of Public Works. Upon the satisfactory completion of any repairs or replacements that may be required, the Director of Public Works or his authorized representative shall so advise the City Clerk, and the City Clerk shall return the deposited funds to the applicant.

In the event the required repairs or replacements are not completed within thirty (30) days after notification by the Director of Public Works or his authorized representative, the funds deposited to assure the completion shall be declared forfeited in favor of the City and credited to the general fund.

All persons operating public utilities in the City and having the right by general or special permission to carry out upon City streets the acts herein controlled shall be required to apply for a permit and to comply with the provisions of this chapter; provided, however, that the surety bond or deposit requirements shall not be applicable. [Ord. 12-004.]

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All work in the public right-of-way shall be done to the latest edition of the City of Dixon Engineering Standards & Specifications.

**SECTION 4.** Section 13.01.090, *Coordination of Excavation*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby added and is to read as follows:

13.01.090 Coordination of Excavation

Public utilities shall coordinate planned infrastructure projects to minimize the damage to the public right-of-way caused by multiple excavations in the same area by providing the City with a two-year plan for work they anticipate in the public right-of-way.

On April 1 and October 1 of each year, or on the first business day immediately thereafter, each public utility shall prepare and submit to the City a plan that shows all major work anticipated to be done in the public right-of-way in the next 24 months. Any public utility that does not propose major work in the next 24 months shall submit a statement *notify the City* that no such major work is anticipated and shall immediately report any major work to the City as soon as it becomes reasonably foreseeable.

- A. To the extent permissible by law, including but not limited to the California Public Records Act, the City shall not disclose to third parties proprietary, trade secret, or otherwise confidential information that is provided to the City by a public utility beyond what is necessary to facilitate coordination among excavators and to avoid unnecessary excavation of the public right-of-way. Any information provided to the City that a public utility deems proprietary, trade secret, or confidential must be clearly marked and identified as such. The public utility must also provide a specific and detailed legal basis establishing why the information is exempt from public disclosure. If the public utility fails to properly mark or identify proprietary, trade secret, or confidential information or provide the specific legal basis for non-disclosure, the City may release such information to the public.
- B. Public utilities shall indemnify, defend, protect and hold harmless the City, including its departments, officers, agents, employees and consultants, from and against, any and all actions, claims, costs, damages, demands, expenses, fines, injuries, judgments, liabilities, losses, penalties, or suits arising from the City's non-disclosure of information deemed by a public utility as proprietary, trade secret, or confidential.

**SECTION 5.** Section 13.01.100, *Moratorium Streets*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby added to read as follows:

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13.01.100 Moratorium Streets

Excavations shall not be permitted in a moratorium street without a valid moratorium waiver.

**SECTION 6.** Section 13.01.110, *Excavation Moratorium Waivers*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby added to read as follows:

13.01.110 Excavation Moratorium Waivers

The City Engineer may upon written request grant an excavation moratorium waiver. The City Engineer may place additional conditions on a Public Right-of-Way Permit subject to an excavation moratorium waiver. The City Engineer may approve or conditionally approve an excavation moratorium waiver only if the City Engineer makes a written finding that one or more of the following grounds are present:

- A. A bona fide emergency exists that
  - 1. endangers the health and safety or property of the citizenry; and
  - 2. requires excavation in order to remediate the emergency
- B. **The person making an emergency use or encroachment on a public street shall apply for a Moratorium Waiver within two calendar days after the offices of the city are again opened.**
- C. New Service to a specific location cannot be provided either:
  - 1. through existing conduit;
  - 2. where trenchless technology is impractical due to one or more of the following:
    - a. soil conditions;
    - b. proximity of facilities;
    - c. where trenchless technology is economically impractical compared to trenching and resurfacing performed in accordance with approved standards; or
  - 3. the public utility demonstrates to the City Engineer's satisfaction that the service cannot be provided from another location.
- D. The installation or relocation of facilities by a non-government owned public utility is both:
  - 1. required by the City, County, State or Federal Government; and

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2. not required as a result of an underground utility district established pursuant to Section 61.0501.
3. Only a non-linear excavation or exploratory excavation will be made. The City Engineer in his or her sole discretion may authorize an exploratory excavation with an area not to exceed five feet by five feet. Such authorization must be made in writing and signed by the City Engineer.

**SECTION 7.** Section 13.01.120, *Excavations on Streets Under an Excavation Moratorium Due to Reconstruction or Resurfacing*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby added to read as follows:

13.01.120 Excavations on Streets Under an Excavation Moratorium Due to Reconstruction or Resurfacing

Excavation approved with an excavation moratorium waiver under Section 13.01.110, to occur on streets that were reconstructed or resurfaced within five year period or slurry sealed in the preceding three year period to the application for an excavation moratorium waiver, shall be resurfaced as shown in Table A and as directed by the City Engineer and in accordance with the following:

- A. Where the linear excavation is in the direction of traffic (longitudinal trench), the excavator shall resurface, as shown in Table A and as directed by the City Engineer, the entire length of the trench area, the excavation influence area on each side and both ends of the excavation area, and the roadway extending to the nearest lane line or gutter on either side.
- B. Where the linear excavation is perpendicular to the direction of traffic (transverse trench), the excavator shall resurface, as shown in Table A and as directed by the City Engineer, the width of the excavation area, plus the excavation influence area, plus an additional five (5) feet in width from curb to curb.
- C. Where a linear excavation is neither in the direction of traffic nor perpendicular to traffic (diagonal), the excavator shall resurface, as shown in Table A and as directed by the City Engineer, the entire length of the trench area, the excavation influence area on each side and both ends of the excavation area, and the roadway extending to the nearest lane line or gutter on either side. The resurfacing area shall be one or more rectangular area with sides parallel to and perpendicular to traffic.
- D. Where the excavation is a Non-Linear Excavation, the excavator shall resurface, as shown in Table A and as directed by the City Engineer, the entire length and width of the excavation area, the excavation influence area on all sides of the excavation area, and the roadway

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extending to the nearest lane line or gutter on either side and five (5) feet beyond the excavated area in the direction of traffic.

- E. Where multiple excavations are occurring in the same vicinity, the resurfacing areas shall be joined to form a rectangular area with sides parallel to and perpendicular to traffic.

**SECTION 8.** Section 13.01.130, *Excavations on Streets Not Under an Excavation Moratorium Due to Reconstruction or Resurfacing*, of Chapter 13.01, Encroachments, of Title 13, Streets, Sidewalks and Public Places, of the Dixon Municipal Code, is hereby added to read as follows:

13.01.130 Excavations on Streets Not Under an Excavation Moratorium Due to Reconstruction or Resurfacing

- A. Where, in the opinion of the City Engineer, excessive excavations, either in size or quantity, are to be done in a roadway and will result in severe degradation of the pavement of a street not under an excavation moratorium, a slurry seal (microsurfacing) may be required as a condition of the encroachment permit.

TABLE A

<u>REQUIRED PAVEMENT TREATMENT</u>					
<u>AGE OF PAVEMENT TREATMENT (YEARS)</u>	<u>PREVIOUS TREATMENT</u>				
	<u>RECONSTRUCTION</u>	<u>OVERLAY</u>	<u>THREE LAYER</u>	<u>TWO LAYER</u>	<u>SLURRY</u>
<u>1</u>	<u>RECONSTRUCTION</u>	<u>2" GRIND/ OVERLAY</u>	<u>THREE LAYER</u>	<u>TWO LAYER</u>	<u>SLURRY</u>
<u>2</u>	<u>4" GRIND/ OVERLAY</u>	<u>2" GRIND/ OVERLAY</u>	<u>THREE LAYER</u>	<u>TWO LAYER</u>	<u>SLURRY</u>
<u>3</u>	<u>4" GRIND/ OVERLAY</u>	<u>2" GRIND/ OVERLAY</u>	<u>THREE LAYER</u>	<u>TWO LAYER</u>	<u>SLURRY</u>
<u>4</u>	<u>2" GRIND/ OVERLAY</u>	<u>THREE LAYER</u>	<u>TWO LAYER</u>	<u>SLURRY</u>	<u>N/A</u>
<u>5</u>	<u>2" GRIND/ OVERLAY</u>	<u>THREE LAYER</u>	<u>TWO LAYER</u>	<u>SLURRY</u>	<u>N/A</u>

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<b>Requirements for trench repair in streets under moratorium:</b>
<u>Trenches perpendicular to the curb: extend t-cut grind limits to 1 foot beyond each side of the trench, plus extend grind 1 foot past ends of trench, plus appropriate Pavement Treatment from above chart.</u>
<u>Trenches parallel to the curb: extend t-cut grind limits to 2 feet beyond each side of the trench, plus extend grind 2 feet past ends of trench, plus appropriate Pavement Treatment from above chart.</u>
<u>Reconstruction: full depth reconstruction of roadway section</u>
<u>Overlay: either edge grind and overlay, or grind and overlay, as directed by the City Engineer</u>
<u>Three Layer System: Type III microsurfacing, rubberized chip seal, Type II microsurfacing</u>
<u>Two Layer System: rubberized chip seal, Type II microsurfacing</u>
<u>Type III microsurfacing</u>

**SECTION 8.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 9.** This Ordinance shall be published by one insertion in The Dixon Tribune, a newspaper of general circulation, printed and published in the City of Dixon, within fifteen (15) days after its final passage and shall take effect, and be in force, thirty (30) days after its final passage.

This Ordinance was introduced at a regular meeting of the City Council of the City of Dixon, held on the 1st day of December, 2020, and given its first reading at said meeting. Said Ordinance was given a second reading and adopted at a meeting of the City Council held on the 15<sup>th</sup> day of December, 2020, and after such reading, Councilmember Pederson, who moved its adoption, seconded by Vice Mayor Bird, and said Ordinance was thereupon adopted by the following vote:



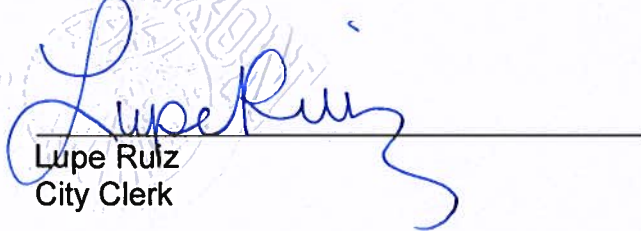
AYES: Bird, Ernest, Pederson, Bogue  
NOES: None  
ABSTAIN: Minnema  
ABSENT: None

APPROVED:

A handwritten signature in blue ink, appearing to read "Thom Bogue", is written over a horizontal line.

Thom Bogue  
Mayor of the City of Dixon

ATTEST:

A handwritten signature in blue ink, appearing to read "Lupe Ruiz", is written over a horizontal line. A faint circular seal is visible in the background behind the signature.

Lupe Ruiz  
City Clerk

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