

ORDINANCE NO. 884

**AN ORDINANCE AMENDING THE SCAPPOOSE MUNICIPAL CODE TITLE 12,
CHAPTER 12.12 (PUBLIC RIGHTS-OF-WAY)**

WHEREAS, the City of Scappoose desires the authority to enforce conditions agreed upon by a right-of-way permit holder and the City Engineer; and

WHEREAS, Title 12, Section 12.12.040, of the Scappoose Municipal Code states that City permission is required for someone seeking to use, occupy, or encroach on or in the public right-of-way, it does not address what would happen if there were a violation of the permit's conditions; and

WHEREAS, several meetings have been conducted with Scappoose City staff members and employees from other agencies to determine the need for amendments to Chapter 12.12 - Public Rights-Of-Way, including the need to add language allowing City staff to revoke a permit and assess a fine if a violation has occurred;

NOW THEREFORE, THE COUNCIL OF THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

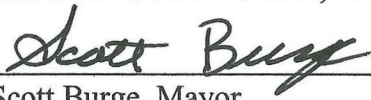
Section 1. Chapter 12.12 of the Scappoose Municipal Code is hereby amended as indicated in Exhibit A, attached hereto and hereby incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 3. This ordinance is effective 30 days after passage.

PASSED AND ADOPTED by the City Council this 7th day of October, 2019, and signed by the Mayor and City Recorder in authentication of its passage.

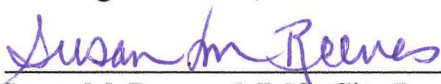
CITY OF SCAPPOOSE, OREGON



Scott Burge, Mayor

First Reading: September 16, 2019

Second Reading: October 7, 2019

Attest: 

Susan M. Reeves, MMC, City Recorder

PUBLIC RIGHTS-OF-WAY

Sections:

12.12.010	Definitions.
12.12.020	Jurisdiction.
12.12.030	Scope of regulatory control.
12.12.040	City permission requirement.
12.12.050	Obligations of the city.
<u>12.12.060</u>	<u>Authority to revoke permit and assess fine.</u>

12.12.010 Definitions.

For the purpose of this chapter, the following definitions apply: "City" means the city of Scappoose, Oregon. "Person" means individual, corporation, association, firm, partnership, joint stock company, and similar entities. "Public rights-of-way" means and includes, but is not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas. "Within the city" means territory over which the city now has or acquires jurisdiction for the exercise of its powers. (Ord. 652 §1, 1997)

12.12.020 Jurisdiction.

The city has jurisdiction and shall exercise regulatory control over all public rights-of-way within the city under the authority of the city Charter and state law. (Ord. 652 §2, 1997)

12.12.030 Scope of regulatory control.

The city has jurisdiction and shall exercise regulatory control over all public rights-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory control over each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means. (Ord. 652 §3, 1997)

12.12.040 City permission requirement.

Other than public vehicular and pedestrian traffic, no person may use, occupy or encroach on or in a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises, licenses and permits. (Ord. 652 §4, 1997)

12.12.050 Obligations of the city.

The exercise of jurisdiction and regulatory control over a public right-of way by the city is not official acceptance of the right-of way, and does not obligate the city to maintain or repair any part of the right-of-way. (Ord. 652 §5, 1997)

12.12.060 Authority to revoke permit and assess fine

The City Manager or authorized designee may revoke or suspend the right-of-way permit for failure to comply with the approved conditions of the permit. The Police Chief may also assess a fine of up to \$1500 per violation of the permit conditions.