

ORDINANCE NO. 166 N. S.

ORDINANCE OF THE CITY OF EL PASO DE ROBLES REGULATING EXCAVATIONS AND FILLS IN OR UNDER THE SURFACE OF ANY LAND IN THE CITY OF EL PASO DE ROBLES; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTING OF FEES THEREFOR AND FIXING PENALTIES FOR THE VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES does hereby ordain as follows:

SECTION 1. DEFINITIONS. In this ordinance the word "person" includes domestic and foreign corporations, associations, syndicates, joint stock companies, firms, partnerships of every kind, trusts, societies and individuals.

SECTION 2. EXCAVATIONS OTHER THAN IN STREETS. It shall be unlawful for any person to make, or cause or permit to be made, any excavation, or any fill, in or under the surface of any land in the City of El Paso de Robles without first obtaining a permit so to do from the City Council in the manner hereinafter provided, excepting, however, excavations for foundation or basement for the erection of a building on the premises in which the excavation is to be made and for which a building permit has been issued. Any excavation referred to herein shall include the removal of any soil, rock, sand or other material for the purposes of sale, fill, building, or other construction usage off the premises from which removed, and any fill shall include the putting in place of any soil, rock, sand or other material.

SECTION 3. PROCEDURE ON APPLICATION FOR PERMIT. The application for any permit referred to in Section 2 hereof shall be filed with the City Clerk in duplicate, the original of which shall be sworn to before some person lawfully authorized to administer oaths, and shall set forth the following information and shall be accompanied by the following data:

- (a) A full identification of the applicant and all persons to be directly or indirectly interested in the permit if granted.
- (b) The residence and business address of the applicant, including all members of any firm or partnership or all officers and directors of any corporation applying.
- (c) A complete description and location of the property on which the excavation is proposed to be made.
- (d) The exact nature of the proposed excavation and material to be removed and an estimate of the approximate number of cubic yards to be removed, or in the case of a fill the exact nature of the material and the approximate number of cubic yards of fill to be added.
- (e) A statement of the manner in which it is proposed to excavate and remove the dirt, rock or other materials, including the slope of the sides and the level of the floor, and the kind of equipment proposed to be employed in making such excavation and removing such materials.
- (f) The proposed route which applicant proposes to use over the public streets and over private property in transporting such materials.
- (g) The past experience of the applicant in the matter to which the permit appertains and the name, address and past experience in such matter of the person to be in charge of the proposed operations.
- (h) The location of the place and the name and address of all persons to whom any materials from the excavation are to be sold or delivered, or in the case of a fill the location of the place and the name and address of all persons from whom any materials for the fill are to be purchased.
- (i) Whether or not any permit of applicant has been revoked and if so the circumstances of such revocation.
- (j) The time within which such excavation or fill is to be commenced after the granting of said permit and the time when it is to be completed.
- (k) Such further information as the City Engineer may require.

SECTION 4. FILING MAP AND PAYMENT OF FILING FEE. At the time of filing the application provided for in Section 2 hereof, the applicant shall file with the City Engineer a topographic map of the property to be excavated or filled. Said map shall show the contours of existing land as solid

lines and the contours of proposed excavations or fills as dotted lines. At the time of filing said application and map, the applicant shall pay a filing fee to cover the City's costs of investigation thereof as follows:

If the estimated number of cubic yards of material to be removed or filled does not exceed 1,000 cubic yards, the filing fee shall be Five Dollars (\$5.00); if the estimated number of cubic yards of material to be removed or filled exceeds 1,000 cubic yards, but does not exceed 5,000 cubic yards, the filing fee shall be Ten Dollars (\$10.00); if the estimated number of cubic yards of material to be removed or filled exceeds 5,000 cubic yards, but does not exceed 10,000 cubic yards, the filing fee shall be Twenty Five Dollars (\$25.00); if the estimated number of cubic yards of material to be removed or filled exceeds 10,000 cubic yards, but does not exceed 50,000 cubic yards, the filing fee shall be Fifty Dollars (\$50.00); if the estimated number of cubic yards of material to be removed or filled exceeds 50,000 cubic yards, the filing fee shall be One Hundred Dollars (\$100.00).

SECTION 5. PAYMENT OF PERMIT FEE ON ISSUANCE OF PERMIT. At the time of the issuance of the permit if the application for the excavation or fill is granted, the applicant shall pay a permit fee, to cover the expenses of inspection and examination of the continued operation of the excavating or fill of One Dollar (\$1.00) for each 1,000 cubic yards estimated in the application to be removed or to be filled. At the time that the number of cubic yards to be removed or filled amounts to the number of cubic yards set forth in the estimate filed with the original application, the permit granted shall terminate and no further materials may be removed from the excavation or filled until a new application has been filed and a permit granted in the same manner as the original application and permit.

SECTION 6. INVESTIGATION AND HEARING. Immediately upon the filing of an application for a permit as provided in Section 2 hereof, one copy thereof shall be delivered to the City Engineer, and one copy to the Planning Commission. The City Engineer and Planning Commission shall each make an investigation of the facts set forth in the application and shall make a written report of their investigations, together with their recommendations, to the City Council, who shall proceed to act upon said application after a hearing set by the City Clerk for a day certain not less than Ten days nor more than Thirty days from the date of filing said application. Such hearing may be continued from time to time as the circumstances may require.

SECTION 7. NOTICE OF HEARING ON APPLICATION. Notice of hearing shall be given by the City Clerk by publication in the official city newspaper once, made not less than Five days before the time set for public hearing. Said notice shall contain the name of the applicant, the address of the property to be excavated or filled and the time and place of hearing.

SECTION 8. DEPOSIT OF BOND AND CERTIFICATE OF INSURANCE. The City Council shall require, as a condition to the granting of any permit applied for pursuant to Section 2 hereof, that the applicant deposit a surety company bond, in an amount to be fixed by the City Council, insuring to the benefit of the City of El Paso de Robles and the general public guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit issued. The City Council shall also require, as a condition to the granting of any such permit, that the applicant deposit a certificate of a responsible indemnity company insuring the City and the public against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant, or any

person acting on his behalf, in carrying on any work connected directly or indirectly with the issuance of said permit. In the event of any damage to any City property, the City Engineer is to estimate the amount of said damage and make a written report of the same to the City Council and the amount fixed in said report, if approved by the City Council, shall be paid by applicant to the City prior to discharging applicant's surety bond.

SECTION 8. CONSIDERATION BY CITY COUNCIL. No permit shall be granted except by the majority vote of the City Council.

Any permit for which application is made for excavation or fill provided for in Section 2 hereof shall be denied if it appears from the investigation thereof that such excavation would remove the lateral and subjacent support of the adjacent land and result in a dangerous topographic condition, or result in seepage or slides or create an attractive nuisance dangerous to public safety, or that otherwise would in any manner endanger the public health and safety or be detrimental to the general public welfare.

SECTION 10. OTHER CONDITIONS REQUIRED OF APPLICANT. Any person to whom any permit is issued to make an excavation or fill referred to in Section 2 hereof shall comply with the following:

- (a) All vehicles transporting rock, earth or other materials from such excavation over the public streets of the City shall travel only directly over such route as may be directed by the City Engineer to be least dangerous to public safety, cause the least interference with general traffic and cause the least damage to the public streets.
- (b) The floor of any such excavation shall not be made lower than the level thereof as set forth in the application provided for in Section 2 hereof.
- (c) If, in the opinion of the City Engineer, any excavation will present a dangerous condition if left open, such excavation shall be inclosed by a suitable fence.

- (d) Any rock, earth or other material that may be deposited on any public street or place from any vehicle transporting such materials from any such excavation or to any fill shall be immediately removed in a manner satisfactory to the City Engineer at the expense of the person to whom the permit to excavate or fill was issued.

SECTION 11. REVOCATION AND SUSPENSION OF PERMIT. Any permit granted pursuant to Section 2 to Section 11 inclusive hereof may be suspended by the City Engineer as in his discretion may seem meet and just for any reason for which the granting of such permit might lawfully be denied, or for any failure to comply with any of the provisions of said Sections. Such suspension shall become permanent unless the applicant shall, within Ten days after suspension, apply to the City Council for hearing. Such application for hearing shall state the grounds for complaint against applicant. The City Council in its discretion may order the permit revoked or may lift the suspension upon such conditions as shall protect the public health, welfare and safety.

SECTION 12. EXPIRATION OF PERMIT. In the event that any excavation or fill for which a permit has been granted, as provided for in Section 2 hereof, is not commenced within Three months from the date of granting of said permit or in the event work is started on excavations or fills pursuant thereto and said work shall cease for a period of Three months, said permit shall automatically expire by limitation and cease to be valid for any purpose.

SECTION 13. VIOLATIONS. Any person who shall violate any of the provisions of this Ordinance shall upon conviction thereof be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for a period not to exceed Three months, or by both such fine and imprisonment.

PASSED AND ADOPTED by the City Council of the City of

CITY CLERK

*[Handwritten signature]*

ATTEST:

MAYOR

*[Handwritten signature]*

CITY OF EL PASO DE ROBLES

El Paso de Robles this 7 day of January, 1952.

STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO  
CITY OF EL PASO DE ROBLES

} SS.


I, S. S. Tucker, City Clerk of the City of El Paso de Robles, California, do hereby certify that the foregoing Ordinance No. 166, N.S. was duly and regularly adopted, passed, and approved by the City Council of the City of El Paso de Robles, California, at a regular meeting of said City Council held at the regular meeting place thereof, on the 7th day, of January 1952, by the following vote:

AYES: Councilmen Gates, Gerst, Ottoson, Smart and Thurlby

NOES: Councilmen None

ABSENT: Councilmen None

Dated this 7th day of January, 1952

  
City Clerk and Ex-Officio Clerk of the City Council,  
City of El Paso de Robles, State of California.