

ORDINANCE NO. **152939**

An Ordinance granting a revocable permit to Richard Fitzler and Dick's Restaurant Supply, Inc., to maintain three private manholes in the north sidewalk of SE Oak Street between SE Third Avenue and SE Union Avenue, repealing Ordinance No. 129747 and No. 132357, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Richard Fitzler and Dick's Restaurant Supply, 1338 SE Union Avenue, Portland, Oregon 97214, has requested permission to maintain three private manholes in the north sidewalk of SE Oak Street between SE Third Avenue and SE Union Avenue.
2. The private manholes are located approximately 55 feet, 65 feet, and 127 feet west of the west line of SE Union Avenue.
3. The property was recently purchased by Richard Fitzler and Dick's Restaurant Supply from Del Monte Meat Company.
4. The manholes, under certain conditions, will not be detrimental to the public interest.

NOW, THEREFORE, the Council directs:

- a. A revocable permit is granted to Richard Fitzler and Dick's Restaurant Supply to maintain three private manholes in the north sidewalk of SE Oak Street 55 feet, 65 feet, and 127 feet west of the west line of NE Union Avenue, adjacent to Lots 1-16, Block 3, Frush's Square Addition, subject to the following conditions:
  - (1) This permit is for use of the street area only, and shall not exempt the permittee from obtaining any license or permit required by the City Code or Ordinances for any act to be performed under this permit, nor shall this permit waive the provisions of any City Code, Ordinance, or the City Charter, except as herein stated.
  - (2) This permit is revocable at any time in the event the public's need requires it and no expenditure of money hereunder, lapse of time, or other act or thing, shall operate as an estoppel against the City of Portland, or

be held to give the permittee any vested or other right. Immediately upon the expiration of this permit, or upon its sooner revocation by the Council, the permittee shall remove said manholes from the street area as directed by and to the satisfaction of the City Engineer.

- (3) The permittee shall hold the City of Portland, its officers, agents, and employees free and harmless from any claims for damages to persons or property, including legal fees and costs of defending any actions or suits, including any appeals which may result from the use of the street area under this permit.
- (4) This permit shall run with the land as to the conditions and obligations herein imposed and shall be binding upon the present owner or owners of the property described above, their heirs and assigns as long as such permit shall remain in effect.
- (5) The City Auditor shall cause a certified copy of this Ordinance to be recorded by the Clerk of Multnomah County in the appropriate Records of Deeds in his office, and the permittees shall reimburse the City of Portland for the cost of such recording.

Section 2. Ordinance No. 129747 entitled "An Ordinance granting a revocable permit to Del Monte Meat Co., Inc., to install a sewage sampling manhole and a sewage pump manhole in the sidewalk area in SE Oak Street near Union Avenue, and declaring an emergency," is hereby repealed.

Section 3. Ordinance No. 132357 entitled "An Ordinance granting a revocable permit to Del Monte Land Company to install and maintain one special equipment manhole and one sewage sampling manhole in the street area of SE Oak Street near Union Avenue, and declaring an emergency," is hereby repealed.

Section 4. This Ordinance will not become effective until the permittee has filed with the City Auditor a document, which has been approved by the City Attorney, accepting the terms and conditions hereof. This Ordinance shall be automatically revoked without further consideration by the Council if the acceptance together with documents and fees required are not on file with the City Auditor within sixty (60) calendar days of the passage of this Ordinance.

ORDINANCE No.

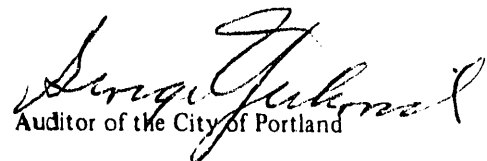
152939

Section 5. The Council declares that an emergency exists in that there be no delay in the transfer of this permission to the new owners and in clearing the records of unnecessary Ordinances; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, MAR 4 1982

Commissioner Mike Lindberg  
Larry Barclay:mmc  
December 10, 1981

Attest:

  
Auditor of the City of Portland

Calendar No. 565

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Title

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THURSDAY

Filed FEB 26 1982

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By *[Signature]* Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN	/	
LINDBERG	/	
SCHWAB	/	
STRACHAN	/	
IVANCIE	/	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>ML/MS</i>

BUREAU APPROVAL
Bureau:
<u>Street and Structural Engineering</u>
Prepared By: _____ Date: _____
Larry Barclay:mmc 12-10-81
Budget Impact Review:
<input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required
Bureau Head: <i>R.O. Schmidt</i>
R. O. Schmidt, Chief

CALENDAR
Consent <input checked="" type="checkbox"/> Regular

NOTED BY
City Attorney
City Auditor
City Engineer John M. Lang Approved
By: <i>R.O. Schmidt</i>