

**ORDINANCE NO. 1492****AN ORDINANCE REGULATING THE CONSTRUCTION, MAINTAINING AND OPERATING OF OPEN DITCHES IN OR ALONG ANY PUBLIC STREETS, LANES OR ALLEYS IN THE CITY OF BAKER, OREGON, AND PROVIDING FOR THE ABATEMENT OR REMOVAL OF ANY OPEN DITCHES CONSTRUCTED OR MAINTAINED CONTRARY TO THE PROVISIONS OF THIS ORDINANCE.**

Be it ordained by the city of Baker:

Section 1. It shall be unlawful for any person whatever, except upon express permit granted by the board of commissioners, to construct any open ditch or ditches in or along any public street, lane or alley within the corporate limits of the city of Baker, Oregon, whether on the inner or outer side of the curb, whenever the owner or owners of the premises abutting the street, lane or alley in or along which such ditch or ditches are proposed to be constructed shall object thereto, subject in all cases to the provisions of Sections 2, 3, 4, and 5 of this ordinance.

Section 2. In all cases, whenever public welfare, or the public use of such street, lane or alley, or whenever the owners of threefourths or more of any block of such abutting premises, by petition filed in the office of the city clerk, shall require the removal or abatement, of any ditch or ditches, whether such permission has by anyone been granted or not, the board of commissioners of said city of Baker shall cause notice to be served on the person, company, or corporation maintaining, operating or keeping such ditch or ditches to forthwith abate or remove the same, or such portion thereof, as the case may be and in such notice to be stated; and it shall be the duty of such person, firm, company or corporation to thereupon without delay remove or abate such ditch or ditches, or such portion thereof, in conformity with said notice so caused to be made and served; provided, that if such person, firm, company or corporation shall desire to provide a water conduit in place of such open ditch, such person, company or corporation may within five days after service of said notice file application for a permit, plans, specifications and estimates for such conduit in the manner and as provided in Sections 3, 4 and 5 of Ordinance No. 1479, entitled "An Ordinance to regulate the maintenance and construction of water

conduits along the streets and alleys in the city of Baker, Oregon, used or constructed by private persons or corporations in said city”, passed by the board of commissioners of said city of Baker on the 18th day of April, 1911; and all persons shall thereupon in reference to such ditch or conduit be governed by and subject to all the regulations and provisions of said Ordinance No. 1479, entitled as aforesaid, whether such street, lane or alley affected or along which such conduit exists or is proposed to be constructed shall have been paved or improved or proposed to be paved or improved or not.

Section 3. Any person violating any provisions of this ordinance or who shall construct, maintain or operate any ditch otherwise than as and upon the conditions in this ordinance provided, shall be deemed guilty of maintaining a nuisance, and shall upon conviction thereof before the police judge of said city, be punished by a fine of not less than \$10.00 nor more than \$100.00 for each offense.

Section 4. Any open ditch or ditches in this ordinance mentioned or referred to maintained, operated or constructed to the provisions of this ordinance are hereby declared to be a nuisance; and in all cases where any such ditch or ditches or any portion thereof exist or are constructed or maintained or operated contrary to the provisions of this ordinance, whenever public welfare or public use of any street, lane or alley, or whenever the owners of three-fourths or more of any block of abutting premises, by petition filed in the office of the city clerk, shall require the removal or abatement of such ditch or ditches or such portion thereof, where the same is not removed or abated upon notice as provided in Section 2 of this ordinance, where a conduit is not provided for as in said section required, the said board of commissioners shall cause such ditch or ditches, or such portion thereof, to be abated or removed and the trenches thereof to be filled; provided, that in all or any of such cases said board of commissioners may in its discretion, whenever it may deem it expedient or necessary or in the interest of public welfare, cause a conduit to be constructed in place of such ditch or ditches or portions thereof, and the cost of constructing such conduit shall in such event be charged to the person, company or corporation owning or maintaining or operating such ditch or ditches or conduits, and the same shall be and become a lien upon such ditch property and any water right that may be appurtenant thereto.

Section 5. The notices herein provided may be served by enclosing the same and mailing in the United States post office, addressed to the person or persons to be served with such notice, at his or their last known place of residence or office in said city of Baker, Oregon; or by delivery of the same by any police officer of said city.

Section 6. Inasmuch as open ditches in the streets and alleys used for public travel

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in the city of Baker, Oregon, are dangerous to the peace, health and safety of said city, and there exists no ordinance adequately regulating the same in all such streets and alleys, the immediate taking effect of this ordinance is necessary for the preservation of the peace, health and safety of said city, and an emergency is for said reasons hereby declared to exist, and this ordinance shall take effect immediately upon its approval by the mayor.

Passed by the board of commissioners of the city of Baker, Oregon, this 16th day of May, 1911.

Approved by the mayor of the city of Baker, Oregon, this 16th day of May, 1911.