CHAPTER 96: STREETS, ALLEY AND PUBLIC WAYS

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STREET EXCAVATIONS

§ 96.01 PERMITS.

It is unlawful for any person to make an excavation within any street or alley in the city for the purpose of installing water, sewer, steam or gas pipe or electric or telephone conduits or for any other purpose without first obtaining a permit for such excavation from the Street Superintendent. A permit shall not be required for any such excavation which is made under a contract awarded by the city or made by workmen hired by the city. (1981 Code, §600.01) Penalty, see §10.99

§ 96.02 APPLICATION.

Application for permits shall be made in writing on forms provided for that purpose by the city. The form shall set forth the pertinent regulations applicable to the permit, as prepared from time to time by the Street Superintendent or City Engineer, and as modified by the Street Superintendent or Engineer with respect to the particular work covered by the permit. The Street Superintendent or City Engineer shall prepare such regulations with respect to excavations within any street or alley and shall modify them with respect to particular work as shall be necessary or advisable to protect the public from injury, to prevent damage to public or private property and to minimize interference with the public use of the streets. (1981 Code, § 600.03)

§ 96.03 ISSUANCE.

Permits for excavations are in writing. The permit shall be kept on the site of the work while it is in progress in the custody of the individual in charge and shall be exhibited upon request made by any city official or police officer. (1981 Code, § 600.05)

§ 96.04 FEE.

Before a permit is issued, the applicant requesting the permit shall pay the fee set by Chapter 110 of this code for each location covered by the permit. (1981 Code, §600.07)

§ 96.05 SURETY BOND.

A surety bond in the amount of $2,000 shall be required from each person requesting a permit. The bond shall be conditioned that the holder will perform the work in accordance with the applicable regulations, will indemnify and save harmless the city from all damage caused in the execution of such work or costs in connection with the repair of the streets or alleys excavated and that the holder will pay any and all damages that will be suffered by the city by reason of the failure of the person securing the permit to observe the terms of this section or by reason of negligence in the execution of the work. (1981 Code, § 600.09)

§ 96.06 CONTRACTOR'S INSURANCE.

A certified copy of the contractor's insurance policy, which shall name the City of Lake City as an additional insured under the coverage provided by the policy, shall be filed with the Administrator. This insurance policy shall be not less than $100,000 for bodily injury to or death of one person and $250,000 on account of any one accident and $50,000 for property damage. (1981 Code, § 600.11)

§ 96.07 TRAFFIC INCONVENIENCE.

Work shall progress in an expedient manner until completion in order to avoid unnecessary inconvenience to traffic. In the event that the work shall not be performed in accordance with the applicable regulations or shall cease or be abandoned without due cause, the city may, after six hours' notice in writing to the holder of the permit of intent to do so, correct the work or fill the excavation and repair the street and in any such event the entire cost to the city of such work shall be a liability of and shall be paid by the person to whom the permit was issued. (1981 Code, § 600.13)

§ 96.08 UTILITY PERMITS.

The provisions of this subchapter are in addition to all utility connection permits that may be required by ordinance or by the rules and regulations of the Engineer or Utilities Commission. (1981 Code, § 600.15)

§ 96.09 PROTECTION OF PUBLIC.

All work to be performed shall be adequately protected by barricades by day and lights at night to protect and inform the public of the nature of the work and any danger therein. Public streets shall be maintained in a passable condition to one-half their width in a manner that will occasion the least inconvenience to the public. Drainage on all water courses shall be provided and maintained. (1981 Code, § 600.17)

§ 96.10 RESURFACING.

Trenches in streets, alleys, boulevards and on private property shall be surfaced pursuant to the requirements of the City Council. (1981 Code, § 600.19)

§ 96.11 BACKFILL.

Backfill shall be carefully deposited in uniform layers not to exceed 18 inches of compacted depth. Material in each layer shall be firmly compacted by ramming or tamping. Compaction shall be of such density as to equal the density of the adjacent undisturbed soils. (1981 Code, § 600.21)

SIDEWALK CONSTRUCTION AND MAINTENANCE

§ 96.25 PROPERTY OWNER'S RESPONSIBILITY.

It is made the duty of all owners of land adjoining any street in the city to construct, reconstruct and maintain in good repair such sidewalks along the sides of the streets, next to the lands of said owners respectively as may have been or shall hereafter be constructed. The construction or reconstruction shall be directed by the City Council and be built of such material and width and upon such place and grade as the City Council may prescribe. No sidewalks shall be permanently removed without the express authority of the City Council. (1981 Code, § 605.01)

§ 96.26 COUNCIL'S AUTHORITY.

Whenever the City Council shall deem it necessary that any sidewalk in the city shall be constructed, reconstructed or repaired, it shall by resolution direct such construction, reconstruction or repairs specifying the place or places where such sidewalks shall be constructed, built or repaired, the quality of the material to be used therefore, the width, the way and manner of the construction thereof and the time within which the same be completed; the names of the owners of all lots, parts of lots and parcels of ground fronting the street or streets; and where such walks are to be constructed, reconstructed or repaired. (1981 Code, § 605.03)

§ 96.27 PUBLICATION.

The publication of such resolution twice in succession, in the official paper of the city, shall be sufficient notice to the owners of lands affected. (1981 Code, § 605.05)

§ 96.28 FAILURE TO COMPLETE.

If such work shall not be fully done, and the sidewalk shall not have been fully constructed, reconstructed or repaired within the time prescribed by the resolution, then the City Council may cause the same to be done by contract or otherwise as they shall deem proper and the entire expense thereof to be paid out of the General Fund of the city. Any time within 30 days after the city shall have completed the construction, reconstruction or repair of the sidewalk, as aforesaid, the City Council shall adopt a resolution fixing a time and place when and where they will hear the testimony of all persons interested or affected and ascertain the cost to the property fronting such sidewalk by reason of the construction, reconstruction and repair thereof, and such resolution shall be published twice in the official paper as heretofore provided in this chapter. At the time and place named in the said resolution the City Council shall hear any and all testimony offered by or in behalf of all persons interested or affected by any construction or repair of the sidewalk, and for the purpose, the Mayor, or any member of the City Council, is authorized to administer oaths to witnesses. Thereupon, by resolution, the City Council shall determine the amount of costs and expenses caused by said construction, reconstruction or repair of the sidewalk to each lot, part of lot or parcel of ground fronting the street or streets where such construction has taken place. The property owner shall thereafter be billed for the expenses

determined, including the general administrative expenses incurred by the city. The amount of such expense shall constitute a lien against the property abutting the sidewalk in favor of the city and may be certified to the County Auditor to be collected as other real estate taxes are collected. (1981 Code, § 605.07)

§ 96.29 STREET GRADE MARKERS.

Stakes, markers and iron pins placed at the corners of blocks or along the line of streets within the city for the purpose of establishing the line or grade of sidewalks therein are declared to be public property. (1981 Code, § 605.09)

REMOVAL OF ACCUMULATIONS OF SNOW AND ICE FROM SIDEWALKS

§ 96.40 SNOW AND ICE ACCUMULATION.

It shall be unlawful for the owner or occupant of any building in front of which, or adjacent to which, a sidewalk has been constructed for the use of the public to allow any accumulation of snow or ice to remain upon the sidewalk longer than 24 hours after slid snow or ice has ceased to be deposited thereon. (1981 Code, § 606.01) Penalty, see § 10.99

§ 96.41 DEPOSITING OF SNOW.

It shall be unlawful for any owner of a vacant lot, filling station, implement dealer, corporation or any other person or corporation owning property adjacent to which a sidewalk has been constructed for the use of the public to push or otherwise move the snow which has fallen upon the property owned by the foregoing persons or corporations upon the sidewalks or the streets adjacent to the property. (1981 Code, § 606.03) Penalty, see § 10.99

§ 96.42 SNOW AND ICE REMOVAL.

It is the express duty of the occupant and the owner of every building (business or residence) or unoccupied lot fronting upon any street or avenue to clean the entire width of the sidewalk in front of his/her building or unoccupied lot that is within the public right of way from snow and ice within forty eight (48) hours of the conclusion of the qualifying event, and so cause the same to be kept clean of snow and ice. Snow shall be removed before it has accumulated to a depth of more than two (2) inches, and ice shall not be permitted to remain on the sidewalk. Removal of ice and snow from the public walkways is necessary for routine travel, public safety, and emergency services.

Owners and occupants of business property adjacent to a sidewalk shall remove accumulation of snow and ice that has been deposited on the sidewalks Mondays through Saturdays on or before 10:00 a.m. or the time of opening of the business, whichever is earlier. During the course of the day Mondays through Saturdays, if accumulation continues, said snow and ice shall be removed periodically throughout the day, and in any event, at least every four (4) hours.

§ 96.43 NON-REMOVAL PENALTY.

Accumulation of snow and ice upon any public sidewalk shall be declared to constitute a public nuisance, and all persons who occupy and/or own property adjacent to such public walks are required to abate such nuisance. It is also the responsibility of the occupant or owner to remove the snow from the corner crosswalks, driveway approaches, around trash cans, mailboxes, and newspaper tubes that are within the public right of way. Residents are encouraged to "adopt" any fire hydrant located near their property to ensure clear access by the fire department.

It shall be unlawful for any person to remove snow or ice from private property, driveways, or sidewalks, and place in such a quantity or manner as to cause a hazard to travel on public streets or sidewalks.

From time to time, the City may determine that city sidewalks shall be closed for various reasons. The City shall advise the public by posting said determination and description of the sidewalk(s) in a conspicuous place at the City Hall. The City's decision to close particular sidewalks within the City shall not alleviate or relieve the occupants and owners with abutting sidewalks from their obligations under this ordinance.

§ 96.44 NON-COMPLIANCE.

(A) *Prima Facie Evidence of Non-Compliance*. Failure of the occupant or owner to remove snow and ice from the sidewalks shall be deemed prima facie non-compliance with this ordinance and shall constitute sufficient cause for the City to direct the removal of said snow or ice from the public sidewalk by the City or its agent. Any person not acting under contract with the City, the occupant, or owner who removes snow or ice from private property and permits the same to be deposited upon the right-of-way, shall be deemed to have violated this ordinance and shall constitute sufficient cause for the City to direct the removal of said snow or ice by the City or its agent.

(B) *Penalty*. If the snow and ice is not removed, the City shall remove such snow and ice, using either City or contract forces, and shall bill the occupant or owner of said property. The necessary costs and expenses, together with an administrative fee to be set by resolution of the City Council, shall be chargeable against the abutting property owner or occupant for non-compliance with this ordinance. The bill shall be due and shall be paid in full within thirty (30) days of the date of the invoice. If the owner or occupant fails to pay the bill in full within thirty (30) days of issuance or within thirty (30) days after an appeal and finding by the City Administrator or the City Council consistent with this ordinance, the charges shall be levied and certified as a special assessment against the owner's property.

(C) *Grievance Hearing*. If the occupant or owner seeks to grieve this procedure, he/she shall make a written request in the office of the City Hall advising the City of the same within fifteen (15) days of receipt of the bill for the snow and ice removal. A hearing shall be scheduled and presided over by the City Administrator or his/her designee for the taking of

testimony, evidence, and the making of proposed findings. The City Administrator shall issue his/her opinion and shall impose the penalties only upon a finding that has been proven by a preponderance of the evidence, and that the penalties are consistent with the provisions of this ordinance. The City Administrator shall render a decision and findings within fifteen (15) days of the hearing and advise the occupant or owner of that decision in writing.

The City Administrator's decision shall be appealable to the City Council, and must be made in writing in the office of the City Hall within fifteen (15) days of receipt of the City Administrator's written findings. The City Council's decision shall be final and binding, and shall be provided to the occupant or owner in writing as soon as possible, and in any event, within fifteen (15) days following the hearing or formal review of the evidence presented.

§ 96.45 DEVIATIONS AND EXCEPTIONS.

It may be advisable from time-to-time that some public sidewalks within the City may be permitted to deviate from strict compliance of the terms of this ordinance. Staff shall recommend to the Council, at least on an annual basis, the name or description of any such sidewalks that may reasonably be given exception for that upcoming snowfall season. This determination shall be based upon criteria including, but not limited to, sidewalks that are not connected to the "general network" of sidewalks within the City and those that, in the absence of said snow and ice removal, do not pose a threat to public safety, health, and the general welfare. The City Council shall expressly confirm or deny all requests for deviations and exceptions to the compliance requirements. (Ord. 474, 4/13/2009)

ENCROACHMENTS

§ 96.55 ENCROACHMENTS ON STREETS.

No person shall erect or maintain any structure or thing on, over or under any street, alley, sidewalk or public way except by permit from the Council. Application for such permit shall describe the nature of the encroachment in such detail as the Council shall require. The Council in its discretion may issue or deny the permit and may impose any conditions to such permit it deems appropriate. (1981 Code, § 610.01)

§ 96.56 MAINTENANCE.

Any encroachment on any street, alley, sidewalk or public way shall be maintained so that it does not endanger or obstruct the public. (1981 Code,§ 610.03)

§ 96.57 OBSTRUCTING STREETS.

No person shall obstruct or endanger the free passage or proper use of the public of any street, sidewalk, alley or public place, except as may be permitted by this subchapter. (1981 Code, § 610.07)

§ 96.58 ALLOWABLE OBSTRUCTIONS.

Goods, wares and merchandise may be placed on sidewalks for reasonable times, provided pedestrian traffic is not obstructed, within an area two-thirds of the width of the sidewalks measured from the curb edge. (1981 Code, § 610.09)

§ 96.59 VIOLATIONS.

Any encroachment maintained in violation of this subchapter is declared a nuisance and may be abated by the city. (1981 Code, § 610.05)

LANDSCAPING OF MUNICIPAL BOULEVARDS

§ 96.70 BOULEVARDS TO BE SEEDED OR SODDED.

All municipal boulevards in the city shall be seeded or sodded with grass. (1981 Code, § 617.01)

§ 96.71 LANDSCAPING PLAN.

(A) Prior to any landscaping other than the seeding or sodding of municipal boulevards, a person must submit to the Streets/Parks Commission a landscaping plan showing the type of materials to be used and the location of the materials.

(B) In reviewing the landscaping plan, the Streets/Parks Commission shall consider criteria such as soil retention, esthetic values on the lot and adjacent property and the public's health, safety and welfare. (1981 Code, § 617.03)

§ 96.72 LANDSCAPING PROPERLY MAINTAINED.

All yard landscaping shall be properly maintained in slightly and well-kept condition by the property owner. (1981 Code, § 617.05)

VACATIONS OF PUBLIC STREETS, ALLEYS, WAYS, EASEMENTS, AND GROUNDS

§ 96.81 PURPOSE. (Added, Ord. 551)

The purpose of this subchapter is to adopt a process to be followed by the City with respect to the vacation of public streets, alleys, ways, easements, and grounds.

§ 96.82 DEFINITIONS. (Added, Ord. 551)

For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING. The land is touching, reaching, joining, bordering on, or contiguous with the area to be vacated.

AFFECTED PROPERTY OWNERS. Those property owners whose properties abut the area to be vacated or, if the area to be vacated is located within a plat, all owners or occupants of land that are also located within the plat.

DEAD-END STREET. A street where one end of the street does not connect with any other street. Dead-end streets do not include dead-end alleys or other types of dead-end public grounds or public ways.

§ 96.83 COMMENCING A VACATION. (Added, Ord. 551)

A vacation of a public street, alley, way, easement, or grounds may be commenced as follows:

(A) By motion of the City Council; or

(B) By petition signed by a majority of the owners of property abutting the property to be vacated. If the request is for a street to be vacated and the street is a dead-end street, then the petition must be signed by all of the owners of land abutting both sides of the street. In all cases, the vacation petition must set forth the reasons for the vacation, a legal description of the area or areas to be vacated and the requestor must pay an application fee in an amount set forth in the City's fee schedule.

§ 96.84 PUBLIC HEARING AND NOTICE REQUIREMENTS. (Added, Ord. 551)

(A) If the City Council decides to proceed with the vacation, it must schedule a public hearing on the vacation. The public hearing must include an opportunity for all affected landowners and the interested public to be heard by the City Council.

(B) The City must give notice of the public hearing by publishing the notice in the City's official newspaper at least two weeks prior to the hearing and by mailing notice to each affected property owner at least 10 days before the hearing. The notice must contain a copy of the vacation petition or the proposed resolution or ordinance as well as the time, date and place of the hearing.

(C) With the exception of a dead-end street, if the area to be vacated is a street and any part of the street terminates at, abuts upon, or is adjacent to any public water, the City must send written notice by certified mail to the Commissioner of Natural Resources at least 60 days before the public hearing. After notice is sent, at least 15 days prior to convening the public hearing, the City must consult with the Commissioner of Natural Resources to review the proposed vacation. With respect to a dead-end street, the petitioners who are requesting the vacation must notify the Commissioner of Natural Resources by certified mail at least 30 days before the public hearing.

§ 96.85 STANDARDS FOR GRANTING A VACATION. (Added, Ord. 551)

(A) With the exception of dead-end streets, the City Council may vacate a street only upon a finding that the vacation is in the interest of the public, meaning that the public, including those persons other than those in the immediate vicinity of the vacation must benefit, in some manner from the vacation. These findings may include, but are not limited to, the area to be vacated is not essential for public transportation purposes, any public infrastructure in the area to be vacated is being relocated at the property owner's expense, and the vacation will not impede access, including emergency vehicle access to any of the surrounding properties. The City Council's ordinance or resolution must include findings of fact that explain the City's reasons for granting the vacation. In the event that the City Council denies the vacation, it will adopt a resolution that also includes findings of fact that explain the City's reasons for denying the vacation.

(B) If the area to be vacated lies within the area that is legally described in Section 12.06 of the Charter, it may not be vacated without approval of a majority of the voters of the City of Lake City, voting at a general or special election to approve such vacation.

§ 96.86 ADOPTION OF AN ORDINANCE OR RESOLUTION GRANTING OR DENYING A VACATION. (Added, Ord. 551)

(A) Street and alley vacations commenced by landowner petition must be approved by the City Council by ordinance and require the affirmative vote of at least five members of the Council. All other vacations may be approved by the City Council by resolution and require an affirmative vote of a simple majority of the quorum of the Council present at the meeting. A vacation commenced solely on the initiative of the City Council requires a four-fifths majority vote of the City Council in favor of the resolution or ordinance.

(B) If an ordinance or resolution granting a vacation is adopted by the City Council, the City Clerk shall prepare a notice of completion of the vacation proceedings and provide it to the County Auditor and County Recorder/Registrar of Titles.