

CHAPTER THREE. STREET, PARK AND PUBLIC PROPERTY AND IMPROVEMENTS

PART 1. STREET EXCAVATIONS

301.01 PERMIT REQUIRED

No person, except an authorized City employee or a contractor performing work under a contract with the City, shall make any excavation in or remove or disturb any part of a street, highway, alley, sidewalk or public ground without first having secured a permit therefor from the City of Pelican Rapids. The fee for such permit shall be as established from time to time by the City Council.

301.02 APPLICATION AND REGULATIONS

The City Clerk shall prepare the necessary application forms and permits required under Section 301.01. The City Council may adopt such rules or regulations with respect to excavations as it finds necessary to protect the public from injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalks and public grounds. Any person making an excavation covered by this section shall comply with such rules and regulations.

301.03 BOND

Any permittee except a public utility corporation or a bonded contractor shall file with the City Clerk a corporate surety bond in the amount of \$5,000 or such other amount as the City Council shall request conditioned that the permittee will:

1. perform work in connection with the excavation in accordance with applicable ordinances and regulations;
2. indemnify the City and hold it harmless from all damage caused in the execution of such work; and
3. pay all costs and damages suffered by the City by reason of failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work.

The bond shall be approved as to form and legality by the City Attorney.

The City Clerk may waive this bond requirement, and as a condition of such waiver, may require the payment of a fee to the City in such amount as may be specified from time to time by the City Council, said fee to be used by the City for patching and finishing road surfaces and related improvements at the location of such excavation.

Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting him from liability to the public, including the City, to an amount equal to the maximum claim the City might be required to pay under Minnesota Statutes, Chapter 466.

301.04 GENERAL REGULATIONS FOR EXCAVATIONS

Street openings shall be made in a manner that will cause the least inconvenience to the public. Provision shall be made for the passage of water along the gutters and at least one-half of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be guarded with substantial barriers and marked with appropriate warning markers and at night with appropriate warning lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a City main or pipe so that it might be damaged by freezing shall be liable to the City for all damages caused by such freezing and all damages sustained by others by such freezing for which the City may be liable. Additional rules and regulations may be adopted by the City Council under Section 301.02.

301.05 REFILLING EXCAVATIONS

Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the City Clerk. All such refilling shall be redone under the supervision of some person designated by, and acting on behalf, of the City. Additional fill, if required, shall be supplied by the permittee. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the City shall be liable to the City for the full cost incurred by the City in remedying the defect and restoring the street, sidewalk, alley or public ground to its proper condition. The cost shall be an obligation of the surety on the bond of the permittee.

301.06 RESURFACING

If the City Clerk determines that an excavation will disturb the surfaced or improved portion of any public ground, the City Clerk may determine that the City shall provide the labor and materials to complete the final repair or resurfacing at the excavation site. The City Council from time to time shall establish the amount to be charged for such finishing work, and the City Clerk shall collect said amount in addition to the permit fee prior to the issuance of the permit.

301.07 MAP OF SUBSURFACE INSTALLATIONS

The City Clerk shall, to the extent reasonably possible, maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds or right of way. To the extent reasonably possible, the information on the map shall be sufficiently complete and accurate to permit anyone making an excavation in a public place having any underground installation to avoid damage to any existing underground installation and to properly locate any new underground facilities and shall be recorded on the map as soon as

practicable upon the issuance of an excavation permit or the completion of an contract for the installation of City underground installations.

PART 2. ASSESSABLE CURRENT SERVICES: OBLIGATION OF PROPERTY OWNERS AND OCCUPANTS

302.01 DEFINITION

The term "current service" as used in this ordinance means one or more of the following: snow, ice or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minnesota Statutes, Sections 463.15 to 463.26; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

302.02 SNOW, ICE, DIRT AND RUBBISH

Subdivision 1. Duty of Owners and Occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after its deposit thereon.

Subdivision 2. Removal by City. The City may, at its option, remove from some or all public sidewalks the snow, ice, dirt and rubbish beginning 12 hours after any such matter has been deposited thereon or after the snow has ceased to fall. The City shall keep a record showing the cost of such removal adjacent to each separate lot and parcel, and shall keep such information at the office of the City Clerk.

302.03 INSTALLATION AND REPAIR OF WATER AND SEWER LINES

Whenever the City installs or repairs water or sewer service lines serving private property under Chapter IV of this code, the City shall keep a record of the total cost of the installation or repair against the property and deliver such information to the City Clerk annually by August 15 as to each parcel of property on which the cost has not been paid. It shall be the responsibility of the property owner to pay for all costs of installation or repair of water or sewer service lines between the water main or sewer main and the building being served, even if part of said service lines are under public property.

302.04 REPAIR OF SIDEWALKS AND ALLEYS

Subdivision 1. Duty of Owner. The owner of any property within the City abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall

be made in accordance with the standard specifications approved by the Council and on file in the office of the City Clerk.

Subdivision 2. Inspections; Notice. The City Clerk or a person or persons acting on his behalf shall make such inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If he finds that any sidewalk or alley abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the City or cannot be found therein, ordering such owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the City will do so, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

Subdivision 3. Repair by City. If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk shall report the facts to the Council and the Council shall by resolution order the City Clerk to have the sidewalk or alley repaired and make it safe or order the work done by contract in accordance with law. The City Clerk shall keep a record of the total cost of the repair attributable to each lot or parcel of property and keep such information at the office of the City Clerk.

302.05 DEBRIS ON STREETS AND RIGHTS OF WAY

Subdivision 1. Debris Prohibited. No person shall deposit or permit to be deposited on any public street or right-of-way in this City, leaves, grass, sand or any other materials, nor shall any person plow, shovel, or blow snow or permit the same to be placed onto a public street or right-of-way in the City.

Subdivision 2. Removal by City. The City may cause removal from all public streets and rights-of-way in the City all leaves, grass, sand, snow and other materials as soon as possible beginning 24 hours after any such matter has been deposited thereon or, in the case of materials causing a traffic hazard or other public hazard, may do so immediately. The City Clerk shall keep a record showing the cost of such removal adjacent to each separate lot and parcel.

302.06 DAMAGE TO PUBLIC PROPERTY

Any person driving any vehicle, equipment, object, or contrivance upon any street, road, highway, or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of such vehicle, equipment, or object or contrivance; or as a result of operating, driving, or moving any vehicle, equipment, object, or contrivance weighing in excess of the maximum weight permitted by statute or this Code. When such driver is not the owner of such vehicle, equipment, object, or contrivance, but is so operating, driving or moving the same with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who, willfully acts or fails to exercise due care and by that act damages any public

property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under Minn. Stat. §514.67.

302.07 ASSESSMENT

On or before September 1 of each year, the Clerk shall list the total unpaid charges for each type of current service and charges under this Part 2 against each separate lot or parcel to which they are attributable under this Part. The Council may then spread the charges against property benefited as a special assessment under Minn. Stat. §429.01 and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the Council may determine in each case.