Milissa Price

From: Washburn WTP [water1@westriv.com]
Sent: Wednesday, April 22, 2009 2:51 PM
To: Joan Zimmerman; Milissa Price
Subject: yard fires

Burning of garbage or rubbish is prohibited in the city of Washburn.

A fire pit is permitted for small, personal yard fires.

Leaves and grass clippings are considered rubbish and should not be burned.

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ORDINANCE NO. 133

PUBLIC PLACES AND PROPERTY

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WASHBURN, NORTH DAKOTA, AS FOLLOWS:

Article 1

Construction and Repair

Supervision

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the city engineer or commissioner of streets and public improvements. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinance.

Construction and Repair -- Permits

It shall be unlawful to construct, reconstruct, alter, grade, or repair any public street, sidewalk, driveway, curbs, gutters, retaining walls, without having first secured a permit. Applications for such permits shall be made to the Auditor and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the ordinances of the city.

Specifications

All construction, maintenance and repair herein shall be made in conformity with specifications laid down or approved from time to time by the governing body.

Duty of Owner to Maintain

It shall be the duty of the owner of any property along which a sidewalk has been construction to maintain the same in good repair and safe condition. Should any such owner fail so to maintain such sidewalks the City or Street Commissioner shall direct him to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should he fail, within a reasonable time, to follow the directions of the City or Street Commissioner, the City or Street Commissioner shall report the facts to the governing body who shall then proceed, as provided in the laws of the State of North Dakota, to make such sidewalk safe.

Application for Permit

An applicant for a permit hereunder shall file with the City Auditor an application showing:

1. Name and address of the owner, or agent in charge, of the property abutting the proposed work area.

2. Name and address of the party doing the work.

3. Location of the work area.

4. Attached plans or sufficient sketches showing details of the proposed alterations.

5. Estimated cost of the alterations.

6. Such other information as the governing body shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

Fees

The applicant for a permit shall submit with his application the fee set by Resolution of the City Commission.

Standard for Issuance of Permit

The governing body shall issue a permit hereunder when he finds:

1. That the work will be done according to the standard specifications of the City for public work of like character.

2. That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress and egress to and from the property affected and adjacent properties.

3. That the health, welfare and safety of the public will not be unreasonably impaired.

Sidewalk Requirement

1. Sidewalks shall be required to be installed and maintained on all developed lots within the city limits of the City of Washburn. A developed lot may be defined as any lot with any type of permanent structure, except that a group of adjoining lots owned by one party shall be considered as a unit of property and

the owner will be required to install and maintain a sidewalk on each lot therein. Lots that have been designated as park property shall also be considered as developed lots, whether or not any structure is located thereon.

3. Sidewalks may be required on all vacant lots or property which lies between two or more developed lots on each side thereof. The Washburn City Commission shall have the authority to use its discretion in requiring sidewalks to be installed and maintained on any undeveloped lots within a development area in the City, even though such lot does not fall within the aforementioned criteria.

4. All sidewalks shall be constructed according to such specifications as are established by the governing body. Petitions for creation of improvement districts for sidewalk construction may be submitted to the City for review and possible use in financing such construction.

Sidewalk Construction

1. Sidewalk Grade:

All sidewalks shall be constructed in accordance with the elevation and grade of the adjacent curb and gutter or the grade will be furnished by the City. Under no circumstances will sidewalks be constructed before the installation of curb and gutter.

2. Sidewalk Width:

a. All sidewalks in residential districts shall have a width of four (4) feet.

b. All sidewalks in commercial and/or industrial districts shall have a minimum width as directed by the City, where the property involves a commercial or industrial use.

c. These requirements are subject to availability of sufficient right-of-way.

3. Sidewalk Locations:

All sidewalk shall be located within the boulevard which will be defined as the remaining right-of-way between the curb and the property line at the following criteria:

Residential Area: the outside edge (dwelling side) shall be 12 inches from the property line in areas where the boulevard is 10 feet or wider. In areas where the boulevard is less than 10 feet, the outside edge shall be constructed next to or on the property line.

In no case shall the sidewalk be constructed next to the curb within a residential district unless right-of-way width, topographic or existing sidewalk features require the sidewalk next to the curb. These specific cases must meet the approval of the governing body.

In locations where the existing street is not centered within the dedicated right-of-way, the sidewalk shall be constructed the same on each side utilizing the criteria above. If the boulevard is 10 feet on one side and 8 feet on the other side, then the sidewalk shall be constructed on each side next to the curb, or otherwise directed by the City.

Commercial Areas: The sidewalk within a commercial area shall have a width as directed by the City.

4. Slope of Sidewalk and Boulevard:

a. All sidewalks shall have a minimum slope of a 1/4 inch per foot or a maximum of ½ inch per foot from the inside edge of the sidewalk toward the street.

b. All boulevards shall have a minimum slope of 1/4 inch per foot or a maximum of 1 inch per foot from the outside edge of the sidewalk toward the street.

5. Materials and Manner of Construction:

All sidewalks shall be constructed using an Air Entrained six (6) sack cement mixture with a 28 day compressive strength of 3500 psi. All sidewalks shall be four (4) inches thick, however, where sidewalks cross driveways or any other areas where vehicles pass, the sidewalk shall be six (6) inches thick.

Construction joints shall be installed at the property lines and at intervals and locations according to specifications set forth by the City or Street Commissioner.

6. Landscaping:

The owner must fill, finish and maintain the landscaping of the boulevard between the sidewalk and the curb.

7. Maintenance:

All sidewalks shall be maintained in a safe condition, and sidewalks that are broken, raised, or settled, or where no sidewalk remains, shall constitute a public nuisance and must be corrected according to the requirements specified herein.

If the property owner fails to alleviate such a nuisance the City of Washburn may correct the same pursuant to the provisions of Chapter 40-29 of the North Dakota Century Code, and assess the Costs thereof against the applicable property.

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than $500.00 or by imprisonment not to exceed 30 days or both.

City Contractor

The City Auditor shall receive bids for the construction of sidewalks, driveways, curb and gutter and paving repair whenever the City deems these repairs necessary. Such bids shall be made upon blanks furnished by the City Engineer or Street Commissioner and shall conform to specifications filed with the City Auditor by the City Engineer or Street Commissioner and approved by the governing body.

All sidewalks, driveways, curb and gutter, and alley returns lying between the property line and the abutting street hereafter constructed within the City of Washburn must conform to this chapter, and the specifications filed with the City Engineer and approved by the governing body must specify the details with respect thereto.

When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks, and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this state, the contractor to whom any such contract shall be awarded shall be required, before such contract is entered into, to give, in addition to the contract bond required by the laws of the State of North Dakota, an additional bond in an amount to be determined by the governing body running to the City of Washburn, conditioned that said contractor shall maintain and keep in good repair, for a period of one (1) year from date of final estimate all sidewalks, driveways, curb and gutter, and paving repairs so constructed by such contractor under the terms of such contract, and that in case of default under the part of such contractor to so maintain and keep such improvements in good repair made by him for the said period of one (1) year, or in case the sidewalks shall within said time begin to crumble or become cracked or broken to such an extent that, in the opinion of the City Engineer or Street Commissioner, the same is not a satisfactory compliance with the specifications or the construction thereof, then the governing body may direct that such sidewalks, driveways, curb and gutter, or paving repairs be immediately repaired or relayed in whole or in part, and the contractor shall immediately cause the same to be repaired or relayed. In the case of the contractor's neglect, refusal or failure to repair or to relay the same, the City, at any time within said one (1) year

period, or thereafter, May cause the same to be repaired or relayed, and the cost thereof, whether done by the City directly or through a contract, may be recovered from said contractor and the surety upon such bond.

Any person desiring to engage in the business of constructing paved driveways, curb and retaining walls in or along the streets and alleys shall make application to the City Auditor for a license to do such work, and shall present with his application evidence of experience and competency in such work. If upon examination of such evidence, the governing body is satisfied of the competency of the applicant, it shall approve his application. The application must be filed with the City Auditor, together with a surety bond in the sum of Five Thousand Dollars ($5,000.00) approved by the governing body for the execution of all work in strict conformity with the provisions of this chapter and the protection, indemnification and saving harmless of the City of Washburn from any or all loss, claim, suit or damages, direct or consequential, which the City may sustain through violation of any of the provisions of this chapter by the license holder, or through negligence of the license holder, or in any other manner whatsoever. Upon filing of the application and bonds, and approval by the governing body, the City Auditor shall issue a license to the applicant.

Article 2

Use and Care of Streets, Sidewalks and Public Places

Obstructions

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the City Engineer or Commissioner of Streets and public improvements.

Encroachments

It shall be unlawful to erect or maintain any sign, building or structure which encroaches upon any public street or property without first securing the permission of the governing body.

Openings

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the governing body. All such lawfully maintained openings shall be guarded by a suitable cover or railing to be approved by the Street Commissioner or the City Engineer or the official who supervises public improvements.

Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires on, under or over any public place, street, alley or other public way without first securing the permission of the governing body.

Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the Street Commissioner, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

Deposits

It shall be unlawful to deposit on any street or public place any material which may be harmful to the pavement or surface thereof, or which may do injury to any person, animal or property or render the same unclean or a nuisance.

Burning

It shall be unlawful for any person, firm or corporation to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

Heavy Vehicles

No person, firm, or corporation shall move, or cause to be moved, over the paved streets, sidewalks, crosswalks, culverts, bridges, and viaducts, within the City of Washburn, any engine, tractor, wagon, truck, or other vehicle, object or thing, which will tend to damage the paving, sidewalks, crosswalk, culvert, bridge or viaduct over which the same is transported, or which exceeds, in weight 20,000 pounds per axle and exceeds 550 pounds per inch of tire width, or any vehicle, to the wheels of which are attached spurs, bars, angle irons, or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the direction and with the permission of the governing body and, with the understanding that such person, firm or corporation shall pay or cause to be paid to the City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts. Provided that when the specified load limits herein contained will cause damage to the streets, the governing body by resolution adopted, and made public, may lower these load limits for the period of time it deems necessary. The provisions of this section shall not apply to State and Federal highways through the City.

Removal of Snow and Ice from Sidewalk

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the City of Washburn to remove from the sidewalk in front of or along the same, any ice or snow which forms, accumulates or obstructs such sidewalk, within twenty-four (24) hours after the ice forms, or the snow ceases to fall thereon; provided, however, that where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of ashes or sand thereon within the time specified for removal, in such manner as to make such sidewalk safe for the travel of pedestrians thereon, shall be deemed a compliance with the provisions of this article.

Removal of Snow and Ice by City

In case the owner of any lot in the City refuses or neglects to remove ice or snow from the sidewalk in front of or along a lot herein, within the time allowed, or fails to sprinkle sand on the same within the time allowed so as to make such sidewalk safe for the travel of pedestrians, the snow or ice may be removed by or under the direction of the Street Commissioner, or sand may be sprinkled thereon and the necessary expenses thereof shall be charged against the abutting property by special assessment in the manner prescribed in Chapter 40-29 NDCC.

Excavations -- Permit

It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the city without obtaining a permit, or without complying with the provisions of this article or the terms of any such permit.

Excavations -- Application

Application for a permit shall be made to the Auditor and shall describe the location of the intended excavation or tunnel, its size and purpose, and the person, firm or corporation doing the actual excavating work and the name of the person, firm or corporation for whom or which the work is being done, and it shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Each such application shall contain a hold harmless agreement whereby the applicant agrees to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing such tunnel or excavation. The applicant will present to the Auditor proof of public liability, bodily injury and property damage insurance which will cover his operations under the permit, in the amount of at

least $50,000.00 for injury or death to one person, $100,000.00 for injury to more than one person in a single accident, and $25,000.00 property damage liability.

Excavations -- Fees

The fee for such permits shall be set by Resolution of the governing body and shall accompany the application for a permit.

Excavations -- Deposit

No such permit shall be issued unless and until the applicant has deposited with the Auditor a cash deposit or bond in the sum of $100.00, if no pavement is involved, and if the excavation is in a paved area, the sum of $750.00, to insure the proper restoration of the ground and laying of the pavement, if any. From this deposit shall be deducted the expense to the City of relaying the surface of the ground or pavement and of making the refill if this is done by the City or at its expense, and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

Excavation -- Manner Of

It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and the excavator shall not anywhere undercut the surface.

The excavator shall not damage any pipes, cables or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the appropriate City department or officer before such pipes, cables or conduits are disturbed.

The excavator shall avoid unnecessary damage or injury to any tree or shrub or the roots thereof.

Excavations -- Restoration

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement. Backfill shall be properly tamped, and any bracing in such tunnel or excavation shall be left in the ground.

Any opening in a paved or improved portion of a street shall be repaired and the surface relayed by the applicant, in compliance with the ordinances of the City and under the supervision of the Commissioner of Streets or City Engineer.

Excavations -- Supervision

The Commissioner of Streets or the City Engineer shall from time to time inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the City to assure compliance with the provisions of this article. The excavator shall give notice to him at least ten (10) hours before the work of refilling any such tunnel or excavation commences.

First Reading: May 5, 1997

Second Reading: May 19, 1997

Final Passage: May 19, 1997

Commission President

Attest: Auditor