


MEMORANDUM

TO: Honorable Mayor and City Council Members

FROM: Paul Johnson – Public Works Director 

DATE: June 23, 2009

SUBJECT: Ordinance 395 Creating Chapter 12.5 In The Code Of Ordinances

STRATEGIC PLAN TRACKING NO: G2-O6-A6

JUN 16 2009



PURPOSE

Ordinance 395 creates Chapter 12.5 of the Orange City, Florida, Code of Ordinances. The creation of this chapter places certain maintenance responsibilities on property owners within the city.

BACKGROUND

While establishing the goals for the city for 2008 – 2009, City Council requested development of an ordinance requiring maintenance of rights-of-way. This desire is reflected in Goal 2, Objective 6, Action 6.

Although about 98% of the property owners in the City already maintain the rights-of-way as outlined in the attached Ordinance, there should be a mechanism in place that provides guidelines and recourse in the event of non-maintenance. With an increased number of vacant properties, Public Works crews are being asked more frequently to perform right-of-way-maintenance at those properties. These properties are typically located in otherwise well-kept residential neighborhoods where the overwhelming majority of property owners currently maintain the right-of-way.

Although no significant adjustments to the City's current right-of-way maintenance practices are anticipated, this Ordinance provides a tool that can help reach some of our other goals such as having people taking pride in their buildings and homes, protecting property values, and building an inviting visual appeal.

RECOMMENDATION

That City Council approve Ordinance 395.

ORDINANCE NO. 395

AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, CREATING CHAPTER 12.5, MAINTENANCE OF RIGHTS-OF-WAY IN THE CODE OF ORDINANCES OF THE CITY OF ORANGE CITY, FLORIDA; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, In the City Council's Goals for 2008, Goal 2, Objective 6, Action 6 refers to the private maintenance of public right-of-ways; and

WHEREAS, it is the desire of the City Council to create this portion of the code; and

WHEREAS, enactment of this chapter will provide for uniform maintenance of rights-of-way.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. That Chapter 12.5 of the Code of Ordinances of the City of Orange City is hereby created in accordance with Exhibit "A" attached hereto and incorporated herein as though fully set forth by this reference.

SECTION 2. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 3. If any section, part of a section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

SECTION 4. This ordinance shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida, and approval as provided by law.

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 395):

First Reading this _____ day of _____, 2009.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
R. Paul Rasch	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 395):

Second Reading this _____ day of _____, 2009.

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
R. Paul Rasch	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

PASSED and ADOPTED this _____ day of _____, 2009.

ATTEST:

AUTHENTICATED:

Deborah J. Renner, CMC, City Clerk

Harley Strickland, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney

CHAPTER 12.5 Right-Of-Way Maintenance

Sec 12.5-1 Definitions

Sec. 12.5-2 Responsibilities of abutting property owners for maintenance of rights-of-way; prohibitions

Sec. 12.5-3. Abatement authority.

Sec. 12.5-4. Service of notice on owner.

Sec. 12.5-5. Failure of owner to comply; correction by city.

Sec. 12.5-6. Billing for work done by city; deadline for payment.

Sec. 12.5-7. Lien declared; recording; interest.

Sec. 12.5-8. Release of lien.

Sec. 12.5-1. Definitions

“Right-Of-Way” is that space between the private property line or survey line of the property owner and the paved or graded portion of the public street adjacent thereto, including the area between a sidewalk and a street.

“Improved Real Property” is any parcel(s) of land upon which a residential, commercial, or other building/structure greater than 100 square feet has been constructed.

Sec. 12.5-2. Responsibilities of abutting property owners for maintenance of right-of-way; prohibitions.

- (a) It shall be the duty and the responsibility of every owner of improved real property within the city to at all times maintain the right-of-way most nearly abutting their property. These duties and responsibilities shall include cutting and mowing grass, edging of sidewalks and curbs, and cutting flowers, vines, and shrubbery so as to maintain a neat, trim appearance in such areas. More specifically, grass shall be mowed at least twice a month during the months of May through October and at least once a month during the remaining period of the year. Flowers, vines, and shrubbery shall be trimmed as required to maintain a neat appearance, but in no event less than

- (b) It shall be the further duty of every property owner within the city to remove any and all refuse or other debris located within the adjacent right-of-way in a reasonable period of time.
- (c) Property owners shall *not* be required to maintain trees that exist in the right-of-way.
- (d) No person shall plant or remove any tree or shrubbery in any right-of-way unless written permission is requested in writing and received in writing from the City Manager or his designee.

Sec. 12.5-3. Abatement authority.

In accordance with section 2-136(5) of the Orange City Code of Ordinance, the hearing officer may make a written request to the city manager to request abatement action for violations of this chapter. This chapter may also be enforced pursuant to the provisions of chapter 2, article IV, Code Enforcement.

(Ord. No. 73-9-1, § 3, 10-1-73; Ord. No. 229, § 1, 2-8-05)

Sec. 12.5-4. Service of notice on owner.

Notice from the city manager shall be by personal service or registered mail addressed to the owner or owners of the property described as their names and addresses are shown on the records of the property appraiser of Volusia County and shall be deemed proper notice when so addressed and deposited in the United States mail with proper postage prepaid.

(Ord. No. 73-9-1, § 3, 10-1-73; Ord. No. 229, § 1, 2-8-05)

Sec. 12.5-5. Failure of owner to comply; correction by city.

Upon the failure of the owner or owners of said lots, parcels or tracts of land to remedy the condition of such premises found to be in violation of the requirements of this chapter within 15 days after notice, the city manager may have such condition remedied either by contractor or direct labor, or by a combination of both methods.

(Ord. No. 73-9-1, § 4, 10-1-73; Ord. No. 229, § 1, 2-8-05)

Sec. 12.5-6. Billing for work done by city; deadline for payment.

Upon completion of the work by the city, the owner shall be billed for the cost and shall have 30 days within which to pay the same.

(Ord. No. 73-9-1, § 5, 10-1-73; Ord. No. 229, § 1, 2-8-05)

Sec. 12.5-7. Lien declared; recording; interest.

Any unpaid charges at the end of 30 days shall be recorded, plus administrative charges, in the office of the clerk of the circuit court, as a lien against the property, and interest shall accrue on the amount of said lien from and after the date on which said charges were payable at the rate of seven percent per year until the amount of the lien, plus interest, is paid.

(Ord. No. 73-9-1, § 6, 10-1-73; Ord. No. 229, § 1, 2-8-05)

Sec. 12.5-8. Release of lien.

A lien may be removed by the execution of a written release of same signed by the city manager and attested by the city clerk, which release shall be in a form acknowledgeable for recording in the office of the clerk of the circuit court.

(Ord. No. 73-9-1, § 7, 10-1-73; Ord. No. 229, § 1, 2-8-05)