

ORDINANCE NO. 2022-001

AN ORDINANCE AMENDING AND RE-ENACTING CHAPTERS II & III OF THE CITY CODE OF THE CITY OF KILLDEER RELATING TO ORDINANCES AND PUBLIC PLACES AND PROPERTY.

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

Section 1: CHAPTER II, Article 1, entitled "ORDINANCES, PROCEDURE" is hereby amended and re-enacted as follows:

2.0101 VOTING, RECORD OF

The yeas and nays shall be taken by the governing body upon the passage of all ordinances and on all propositions to create any liability against the city or for the expenditure of appropriation of money, and, in all other cases, at the request of any member, which shall be entered on the journal of its proceedings, and the concurrence of a majority of all the members elected shall be necessary to the passage of any such ordinance or other matter which shall come before it for decision, except as otherwise provided by law or ordinance. It shall require a two-thirds vote of all the members elected to sell any city property where the value is more than \$1,000.00. A member of the governing body who passes his/her vote, or who remains silent when the roll call on the vote is taken, shall be deemed to have voted yea and a record of yea shall be entered in the journal.

2.0102 RECONSIDERATION OR RESCINDING VOTE

No vote of the governing body shall be reconsidered or rescinded at a special meeting unless, at such special meeting there is present as large a number of members as was present when such vote was taken.

2.0103 PROCEDURE IN PASSING ORDINANCES

All ordinances shall be read twice, and the second reading shall not be had in less than one week after the first reading; and after such first reading, before their final passage, such ordinances may be amended, and shall then be put upon their second reading and final passage and if passed by the governing body, shall be signed by the president of the governing body and attested by the city auditor.

2.0104 PUBLICATION

The title and penalty clause of each ordinance, imposing any penalty, fine, or imprisonment for its violation, after its final adoption, shall be published in one issue of the official paper of the city.

2.0105 EFFECTIVE DATE

Ordinances adopted and requiring publication shall take effect and be in force from and after publication unless otherwise provided. Ordinances not requiring publication shall take effect and be in force from and after final approval unless otherwise provided.

2.0106 EFFECT OF REPEAL

When any ordinance repealing a former ordinance, clause or provision, shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided.

2.0107 GENERAL PENALTIES FOR VIOLATION

In case no other specific penalty is prescribed for the violation of any section or provision of any ordinance of the city of Killdeer, any person found guilty of violating the same shall be punished by a fine of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment not to exceed thirty (30) days, or both such fine and imprisonment in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. Each day any person, firm, association or corporation shall violate any section or provision of any article shall constitute a separate offense.

2.0115 RESTORATION OR RESTITUTION FOR DAMAGED PROPERTY

A person convicted of a violation of a City Ordinance, in addition to other penalty provisions, may be sentenced to the restoration of any damaged property or to restitution for damages resulting from the commission of the offense.

Section 2: Chapter III, entitled "PUBLIC PLACES AND PROPERTY" is hereby amended and re-enacted as follows:

ARTICLE 1 CONSTRUCTION AND REPAIR

3.0101 SUPERVISION

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the Public Works Superintendent. He/she 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.

3.0102 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 therefore, unless said work is performed by the city contractor. 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.

3.0103 BOND

Each applicant shall file a bond in the amount of Five Thousand Dollars (\$5,000.00) with surety to be approved by the governing body conditioned to indemnify the city for any loss or damage resulting from the work undertaken or the manner of doing the same.

3.0104 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.

3.0105 DUTY OF OWNER TO MAINTAIN

It shall be the duty of the owner of any property along which a sidewalk has been constructed to maintain the same in good repair and safe condition. Should any such owner fail so to maintain such sidewalks, the Public Works Superintendent shall direct him/her to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should he/she fail, within a reasonable time, to follow the directions of the Public Works Superintendent, the Public Works Superintendent 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.

3.0106 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 Public Works Superintendent shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

3.0107 FEES

A Fifty-dollar (\$50.00) fee shall accompany an application for a permit.

3.0108 STANDARDS FOR ISSUANCE OF PERMIT

The Public Works Superintendent shall issue a permit hereunder when he/she 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.

3.0109 SIDEWALKS BUILT TO GRADE

All sidewalks shall be constructed in accordance with the elevation and grade therefore to be furnished by the city engineer, and shall be constructed under his/her direction and supervision, or if the city has no engineer, sidewalks shall be constructed under the supervision of the Public Works Superintendent.

3.0110 WIDTH OF SIDEWALKS

All sidewalks hereafter constructed within the limits of the city of Killdeer shall be constructed with the following widths:

1. All sidewalks in the residential district shall be constructed five (5) feet in width—and shall have a minimum slope of one quarter (1/4) inch per foot from the inside edge toward the street,

a. In locations where the right-of-way width is sixty (60) feet or less the sidewalks shall be constructed on the property line.

b. In locations where the right-of-way width is greater than sixty (60) feet the sidewalk shall be constructed eighteen (18) inches out from the property line.

c. In no case in the residential district shall the sidewalk be constructed adjacent to the curb unless right-of-way width or topographic features require and then only with specific approval of the governing body.

2. All sidewalks in the commercial and/or industrial districts shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section.

a. In areas where commercial development is not complete the entire sidewalk need not be constructed. A section six (6) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundations,

3.0113 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 having obtained a permit as is herein required, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.

3.0114 EXCAVATIONS - APPLICATION

Applications for such permits shall be made to the auditor, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefor, 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 shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

3.0115 EXCAVATIONS - DEPOSIT

No such permit shall be issued unless and until the applicant therefore has deposited with the auditor a cash deposit or bond in the sum of Five Thousand dollars (\$5,000.00), if no pavement is involved, and if the excavation is in a paved area, 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.

3.0116 EXCAVATIONS - 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 therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

No injury shall be done to 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 city department or officer charged with the care thereof, which are or may be endangered or affected by the making

of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.

No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

3.0117 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 there. Refill shall be properly tamped down, 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 relaid by the applicant, in compliance with the ordinances of the city and under the supervision of the commissioner of streets or city engineer.

3.0118 EXCAVATIONS - SUPERVISION

The Public Works Superintendent 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 see to the enforcement of the provisions of this article. Notice shall be given to him/her at least ten hours before the work of refilling any such tunnel or excavation commences.

ARTICLE 2

USE AND CARE OF STREETS, SIDEWALKS AND PUBLIC PLACES

3.0201 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 Public Works Superintendent.

3.0202 ENCROACHMENTS

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

3.0203 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 strong cover or railing to be approved by the Public Works Superintendent.

3.0204 WIRES

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permission from 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 commissioner of streets and public improvements, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3.0205 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.

3.0206 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.

3.0207 DISTRIBUTING HAND BILLS, ETC.

The scattering, throwing, or placing bills, posters, advertising matter, handbills, and other similar matter on lawns, porches, yards, sidewalks, steps, streets, alleys, public ways or in or upon automobiles while parked on the streets, alleys or public ways, or public parking lots in the city of Killdeer, by any person, firm, co-partnership, association, or corporation is hereby declared to be a nuisance and unlawful.

3.0208 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 Killdeer, any engine, tractor, wagon, truck, or other vehicle, object, or thing, which will tend to injure the paving, sidewalks, crosswalk, culvert, bridge or viaduct over which the same are transported, or which exceeds, in weight 20,000 pounds per axle for single axle vehicles and 17,000 pounds per axle for tandem axle vehicles, or exceeds 550 pounds for each 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 permission of the governing body and, in addition thereto, shall pay or cause to be paid to said 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 city paved streets the governing body by resolution adopted, and made public, may lower said load limits for such period of time it may deem necessary. The provisions of this section shall not apply to state and federal highways through the city.

3.0209 REMOVAL 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 Killdeer 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 to be in compliance with the provisions of this article.

3.0210 REMOVAL OF SNOW AND ICE BY CITY

In case the owner of any lot in the city refuses or neglects to remove such ice from such sidewalk in front of or along a lot therein, the ice or snow therefrom within the time above stated or refuses to sprinkle ashes or sand on the same within the time specified for removal in such manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the Public Works Superintendent of the city, or ashes or sand sprinkled thereon and the necessary expenses thereof shall be charged against

the abutting property by special assessment thereof in the manner prescribed by law.

3.0211 STREET CLEANING - SNOW REMOVAL

Whenever, in the judgement of the governing body or the Public Works Superintendent of the city, it shall be necessary that streets, alleys, or public ways in the city be cleared of snow or ice or be cleaned by the use of street sweepers or other methods of cleaning such streets, or for marking for traffic purposes, the ordinances of the city regulating the parking of automobiles, trucks and other motor vehicles shall be suspended and it shall be unlawful for any automobile, truck or other motor vehicle to be parked or left standing between the hours hereinafter mentioned and during the period of time during which the said parking ordinances are suspended. The city shall not be responsible for cleaning snow from private driveways prior to or after city maintenance has cleared the street.

3.0212 SAME: NOTICE

Whenever it becomes necessary to remove snow or ice or to sweep and clean streets, or to mark streets for traffic purposes in the city there shall be designated by the Public Works Superintendent the area and streets to be cleared of snow or ice or cleaned as aforesaid and the time during which such snow and ice removal and street cleaning shall be done and posting of such information in the area affected.

3.0213 IMPOUNDING

Whenever any parked automobile, truck, machinery, vehicle, or equipment shall be found in any place prohibited by these restrictions, and during the hours as provided herein, the same shall be impounded by the city at a place to be provided and it shall be unlawful for any person, firm, or corporation to remove or attempt to remove any truck, automobile, machinery, vehicle, or equipment from the place where it was impounded without first paying the cost of such impounding.

3.0214 BLOCKING STREETS

No driver of any vehicle shall stop the same on any street, avenue, lane, or alley of the city in such a manner as to hinder or prevent other vehicles or persons from passing at all times, unless in case of absolute necessity, nor shall any driver of any vehicle stop the same at any regular crossing or said street, alley, lane, or avenue, so as to prevent the free passage of persons traveling or passing on foot.

ARTICLE 3

UNCLAIMED AND ABANDONED PROPERTY

3.0301 UNCLAIMED AND ABANDONED PROPERTY - DEFINED

Personal property left upon the streets, alleys or other public ways in the city shall be deemed to be unclaimed or abandoned within the meaning of this article when the same is permitted to remain in any one place upon said streets, alleys or other public ways for a period of ten (10) days or more.

3.0302 UNCLAIMED AND ABANDONED PROPERTY - SEIZURE OF

Whenever any unclaimed or abandoned personal property is found upon the streets, alleys or other public ways of the city, the property shall be seized and turned over to the chief of police.

3.0303 UNCLAIMED AND ABANDONED PROPERTY - HOLDING NOTICE AND SALE

Such personal property as aforesaid shall be held by the city for a period of not less than sixty (60) days after its seizure as provided herein and, after the expiration of said sixty (60) days the city auditor shall cause notice to be published in the official newspaper of said city, said notice specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said city, and a further notice that said property will be sold, at public auction, to the highest bidder for cash, not less than ten (10) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held.

3.0304 UNCLAIMED AND ABANDONED PROPERTY - REPORT OF SALE

At the time specified in said notice the said property shall be sold by the chief of police of the city or by any police officer designated by him, at public auction, to the highest bidder for cash and within three (3) days after the date of said sale, the officer making the sale shall make a report thereof to the governing body, which report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers and the amount received therefor, said report shall be made under oath and subscribed by the officer making such sale and shall be filed with the city auditor within three (3) days after the date of such sale and such officer, with said report, shall pay to the city auditor the proceeds of said sale.

3.0305 UNCLAIMED AND ABANDONED PROPERTY - BILL OF SALE

Upon the receipt of the report as specified in Section 3.0304 hereof the city auditor shall prepare a bill of sale of the property sold, conveying the same to such purchaser and the same shall be executed by the presiding officer of the governing body and attested by the city auditor and delivered to the purchaser.

3.0306 UNCLAIMED AND ABANDONED PROPERTY - PROCEEDS OF SALE

The city auditor shall retain such money as is received from such sales in a separate account for a period of six (6) months from and after the time of such sale and if the proceeds of such sale are not claimed as hereinafter provided, by the owner of said property, the said money shall thereupon be transferred to the general fund of the city.

3.0307 UNCLAIMED AND ABANDONED PROPERTY - REDEMPTION

Any person owning such personal property seized as aforesaid, may at any time prior to the sale thereof, upon furnishing satisfactory proof of his or her ownership thereof to the governing body, reclaim such property upon paying the expenses incurred by the city for the seizure, storage or advertising the sale thereof and any person owning such property as aforesaid may at any time within six (6) months after such sale and upon making satisfactory proof to the governing body of his ownership thereof, claim the proceeds of such sale, upon payment to the city of the necessary expenses incurred by the city for the seizure, storage and sale of said property.

Section 3: Repeal of Ordinances in Effect. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 4: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Ordinance shall continue in full force and effect.

Section 5: Effective Date: This Ordinance shall be in full force and effect from and after final passage.



By: Carey Praus, City of Killdeer Commission President

ATTEST:



Matt Oase, City Auditor

First Reading: 01/17/2022

Second Reading: 02/07/2022

Final Reading: 02/07/2022

