



Ordinance No. O2018-08-006

AN ORDINANCE AMENDING NOGALES CITY CODE CHAPTER 17 STREETS AND SIDEWALKS BY ADDING SECTIONS 17-67 AND 17-68 PROHIBITING UNAUTHORIZED ALTERATIONS OR DUMPING IN CITY RIGHTS OF WAY, AND ESTABLISHING PENALTIES AND ENFORCEMENT PROCEDURES

BE IT ORDAINED by the Mayor and City Council of the City of Nogales, State of Arizona follows:

SECTION ONE: Nogales City Code Chapter 17 Streets and Sidewalks is hereby amended to add new Article IV Public Rights of Way, Sections 17-66 and 17-67, which shall read as follows:

Article IV Public Rights of Way

Section 17-66 Unauthorized alterations to public rights of way prohibited.

- (a) Unless expressly permitted in writing by the City Manager or designee, no person shall materially alter a public right of way within the City by blading, grading, improving, depositing fill or construction debris, or by moving or removing barriers, signs or other traffic control devices placed within the right of way by the City.
- (b) All applications for permits to alter a public right of way must conform to City standards for public improvements, be reviewed and approved by the Design Review Committee and include a bond or other adequate security in an amount sufficient for the work to be performed.
- (c) Any unauthorized material alteration of a public right of way is hereby declared to be a nuisance and any person violating this section is responsible for all costs of repairing the alteration, including but not limited to removal of fill, debris or other additions, replacement of barriers, signs or traffic control devices moved or removed and such additional work reasonably necessary to return the right of way to its condition prior to alteration.

Section 17-67. Violations and Penalties; Service; Procedure.

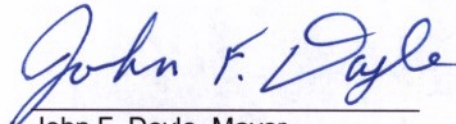
- (a) Except as otherwise provided, any violation of this Chapter is a civil offense, the violation of which shall subject the person responsible to a civil fine of five hundred dollars (\$500) for the first offense, one thousand dollars (\$1000) for a second offense, and two thousand five hundred dollars (\$2500) for each subsequent offense occurring within any two-year period. Each day in which any person engages in any activity to alter a right of way is a separate violation.
- (b) A notice of violation/stop work order may be served via letter or Arizona Traffic Ticket and Complaint or similar form by service in person or by mailing a copy by certified mail to the person observed to have committed the violation at the address on file with the Motor Vehicle Division of the Arizona Department of Transportation.
- (c) The Arizona Rules of Procedure in Civil Traffic Violation Cases shall be followed by the Nogales City Court for any violations of this Chapter.
- (d) In addition to any other penalties or enforcement procedures, the City Manager or designee may enforce a notice of violation/stop work order by revoking any license or permit previously issued to any person responsible for a violation, upon 10 days' notice and an opportunity to be heard.

SECTION TWO: All ordinances, resolutions and orders inconsistent with this ordinance are hereby repealed.

SECTION THREE: The effective date of this ordinance shall be thirty days after adoption.


SECTION FOUR: Pursuant to A.R.S. § 9-812, the City Clerk is directed to publish this ordinance for two consecutive weeks in a newspaper of general circulation.

PASSED, ADOPTED, AND APPROVED by the Council of the City of Nogales, Arizona, this 01st day of August, 2018.




John F. Doyle, Mayor

ATTEST:



Leticia Robinson, City Clerk

APPROVED AS TO FORM:



Luis F. Parra, City Attorney

STAFF SUMMARY

SUBJECT: First Reading of Ordinance No. O2018-07-0xxx

BACKGROUND: The City of Nogales desires to prevent unauthorized work occurring in public rights of way without permit or authorization.

Currently, in order to prevent someone from altering a public right of way, the City would have to take that person to superior court to obtain an injunction. The City requests that a less expensive enforcement procedure, such as citation into City Court or notice of revocation of a license or permit, be adopted.

STAFF RECOMMENDATIONS:

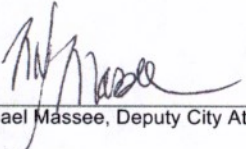
Staff recommends approval of amendment to Nogales City Code Chapter 17 Streets and Sidewalks as presented.

SUGGESTED MOTION:

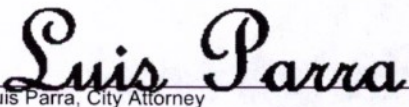
“I move to approve the first reading of Ordinance No. O2012-02-00x and set it for a second reading or waive second reading if the vote is unanimous.”

SUGGESTED MOTION:

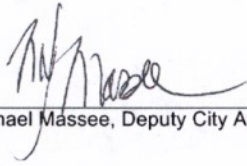
“I move to approve Ordinance No:


Michael Masee, Deputy City Attorney

7/6/2018

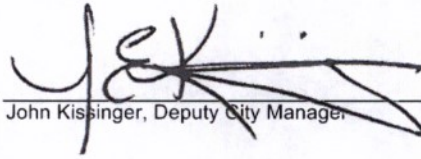

Luis Parra, City Attorney

7/6/2018



Michael Masee, Deputy City Attorney

7/9/2018



John Kissinger, Deputy City Manager

7/9/2018

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APPROVED: 08-01-2018

UNANIMOUSLY

WAIVE SECOND READING

08-01-2018