

ORDINANCE NO. 81-100

AMENDING THE CITY CODE BY PROVIDING A NEW SECTION ENTITLED "PROCEDURES AND STANDARDS FOR THE CLOSING OR PARTIAL BLOCKING OF PUBLIC STREETS, THOROUGHFARES, SIDEWALKS AND ALLEYS", PROVIDING DEFINITION OF TERMS; PROVIDING FOR ADOPTION OF MANUAL OF UNIFORM BARRICADING STANDARDS; PROVIDING FOR PERMIT ISSUED BY THE RESPONSIBLE INDIVIDUAL TO CLOSE OR PARTIALLY BLOCK PUBLIC ROADS IN CERTAIN CASES, PROVIDING FOR STANDARDS ON APPLICATION TO SECURE PERMIT; PROVIDING FOR APPROVAL, DISAPPROVAL AS APPROVAL OF PERMIT SUBJECT TO SPECIAL REQUIREMENTS; PROVIDING STANDARDS FOR ISSUANCE OF PERMIT BY THE RESPONSIBLE INDIVIDUAL; PROVIDING STANDARDS FOR REVOCATION OF PERMIT; PROVIDING FOR RESTORATION OF WORK SITE IN THE EVENT OF REVOCATION OF PERMIT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT AND FOR REPEAL OF CERTAIN ORDINANCES SPECIFICALLY; PROVIDING PENALTY TO \$200 FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION.

WHEREAS, it is necessary for the purpose of regulating traffic through and around construction and maintenance operations, and to set up a standard sequence of barricading, channelization and signing which can be arranged to meet the variety of conditions which could be encountered, and to serve as a standard for uniform construction procedure in installing and maintaining devices to control traffic around construction sites and that a uniform barricading ordinance be promulgated for the City of De Leon and

WHEREAS, the rules and regulations as herein set forth governing the barricading of construction areas within public right-of-ways in the City of De Leon are herein promulgated and adopted in accordance with the "State of Texas Uniform Act Regulating Traffic on Highways" codified as Article 6701d Vernon's Civil Statutes, and,

WHEREAS, the City of De Leon herewith and hereby adopts, ratifies and promulgates all the intent, purposes and power of said Article, and expressly vests such powers not otherwise prohibited in a responsible person; subject however, to any modifications and changes thereof that may be adopted by official action of the responsible person or the City Council necessitated by future growth, progress and unforeseen exigencies;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF De Leon

SECTION I — GENERAL

Any person who undertakes to perform any work upon, in, under, above or about any public street, highway, roadway, alley or sidewalk, hereafter collectively called public right-of-way, which requires that the street be partially or completely closed for construction and/or maintenance operation which work shall require excavation within or occupancy of the whole or a portion of the width of any such public right-of-way by equipment,

materials, debris or workmen shall use barricades, signals, flags, flares, and all other traffic control and warning devices and procedures about the work area during the duration of the work within the public right-of-way of the type and in the manner required by the Uniform Barricading Standards adopted herein below. Such persons shall also be required to obtain a permit from the responsible person if the Specifications stated in Section III, B-1-3 are applicable, with the exception of the State Department of Highways and Public Transportation conducting work on any state designated system. In such cases no permit is required. This permit must be acquired before construction is begun. Purpose of the permit is to insure that ample consideration has been given to the effect of said construction work on the flow of traffic.

It shall be the responsibility of the permit-holder to provide, erect, place and maintain all warning signs, traffic control devices and barricades required by the *Texas Manual on Uniform Traffic Control Devices*, or the responsible person. All such signs, devices and barricades should be in good condition, clean and legible and shall be of the type required by the *Texas Manual on Uniform Traffic Control Devices*; provided, that the responsible person may authorize the use of different or special devices and equipment if, in his opinion, such equipment will be at least as effective for its intended purpose as that set forth for such purpose in the *Texas Manual on Uniform Traffic Control Devices*. When additional regulatory signs are deemed necessary by the responsible person such signing will be installed as directed by the designated department along with such regulatory signs as are required to be provided by the City as required by the Manual.

SECTION II — DEFINITIONS

A. RESPONSIBLE PERSON. Shall mean the responsible person of the designated department of the City of DE LEON or any appointed representative.

B. PERMIT. Shall mean a written letter of approval from the responsible person or his appointed representative.

C. STREETS AND ALLEYS. The term "Street" shall mean a traveled way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

1. MAJOR THOROUGHFARES OR ARTERIAL STREETS are principal traffic arteries more or less continuous across the City which are intended to connect remote parts of the City and which are used primarily for fast or heavy volume traffic and shall include but not be limited to each street designated as a major Street on the Major Street Plan.

2. COLLECTOR STREETS are those which carry traffic from minor streets to the major system of arterial streets and highways including the principal entrance streets of a residential development and streets for circulation within such a development.

3. MINOR STREETS are those which are used primarily for access to abutting residential properties which are intended to serve traffic within a limited residential district.

4. ALLEYS are minor traveled ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

D. DETOUR shall mean an alternate route in which vehicular traffic is directed around a street which is closed.

E. MANUAL shall mean the "Manual on Uniform Barricading Standards."

F. City shall mean the City of DE LEON.

G. SHALL, SHOULD & MAY. The word "shall" is a mandatory condition; the word "should" is an advisory condition to insure safe operation conditions; and the word "may" is a permissive condition.

H. PUBLIC RIGHT-OF-WAY shall mean any public street, highway, roadway, alley, or sidewalk.

I. CONTRACTOR shall mean any person or group of persons entering into an agreement with the City of DE LEON.

J. EMERGENCY shall be an unforeseen combination of circumstances or the resulting state, that calls for immediate action.

SECTION III -- PROCEDURE AND PERMIT REQUIREMENTS

A. PERMIT REQUIRED

1. APPLICATION. When a permit is required, the permit application shall, unless otherwise authorized by the responsible person for good cause shown, be filed with the responsible person at least five (5) days prior to the day the applicant seeks to first close or block any part of the roadway and shall contain the following information:

a. The name, telephone number, local address and principal place of business of the applicant;

b. The name and day and night telephone number of the engineer, foreman or other person who will be in charge of the construction or repairs for which the application is requested;

c. The times of the day and total number of calendar days the applicant seeks to block the roadway;

d. A statement signed by the applicant, or a person authorized to bind the applicant, that the applicant will indemnify and forever hold the City harmless against each and every claim, demand or cause of action that may be made or come against it by reason of or in any way arising out of the closing or blocking of the roadway by the applicant under a permit from the City, if such permit is granted;

e. A standard barricading layout showing placement of barricades, cones and informational signs used on the project;

f. An explanation as to the nature or type of work that is to be performed along with its location;

g. Any other information deemed necessary by the responsible person.

2. APPROVAL OR DISAPPROVAL. The responsible person shall either approve or disapprove the application in five (5) business days after it is submitted. The responsible person may approve an application either as applied for or subject to special requirements, as provided in Section III, A-5 which special requirements shall be endorsed on the permit when issued and become a part thereof. If an application is not approved, the responsible person shall so notify the applicant, in writing, stating the reasons for disapproval. An applicant may, if he so desires, undertake the revision of the unapproved application and re-submit it to the responsible person who shall approve, approve subject to special requirements, or disapprove the amended application within two (2) business days.

a. The responsible person may disapprove applications for permits under this Article only for the following reasons:

(1) The proposed barricading, channelizing, signing, warning or other traffic control procedures or the equipment therefor do not comply with the requirements of the Manual.

(2) The nature of the work to be performed or its location is such that the work may, without imposing any undue hardship on the applicant, be performed without the necessity of blocking or closing the roadway;

(3) The work or the manner in which it is to be performed will violate a City ordinance or a State statute;

(4) Failure to furnish all of the information required by this Article or, except for good cause shown, to file the application within the time prescribed by this Article;

(5) Misrepresenting or falsifying any information in the application.

3. SPECIAL REQUIREMENTS. The responsible person may at the time he approves an application or anytime after a permit is issued require:

a. The use or specific location of additional barricades, signals, signs, or other traffic control or safety devices or the pursuance of special traffic control or safety procedures;

b. That the work be performed only at certain hours during the day or night, or during specified days of the week;

c. That only a specified area or not more than a specified number of lanes shall be blocked at the same time or at specified times of the day;

d. That materials and equipment used in the work site and dirt removed from any excavation be located other than in the vehicle traffic lanes of such roadway;

e. That all equipment be moved from the traffic lanes and any excavation in the traffic lanes be covered or filled with materials of sufficient strength and construction to permit vehicular traffic to pass over such excavation during all or part of the peak traffic periods or at night.

When such requirements are deemed necessary by the responsible person in the interest of public safety and to avoid traffic congestion, any such special requirements shall be endorsed on the permit and shall be a part thereof.

4. REVOCATION. Any designated responsible person or his authorized representatives may revoke a permit issued hereunder if any of the permit-holder's barricading, signing, channelizing, warning or other traffic control procedures or the equipment at the work site do not comply with the requirements of the Manual, or with any special requirements imposed by the responsible person. The permit-holder, or the person named as responsible for or in charge of the work in the permit, shall first be notified of the failure or defect and be given a reasonable time, such length of time to be determined by the responsible person and not to exceed twenty-four (24) hours, to correct same before such permit is revoked. In the event a permit issued under this Article is revoked, it shall be unlawful to continue to block the roadway, except to restore the site to its proper condition as required herein.

5. RESTORATION. In the event a permit is revoked, the permit holder shall immediately commence operations to restore the work area within the roadway to its proper condition, such work to be completed within twenty-four (24) hours. In addition, except as required to restore the work area to its proper condition, the permit-holder shall remove all equipment, men, materials and debris from the roadway. In the event such restoration is not done, the City shall be authorized, at its election, to take charge of the

work and restore the premises to its proper condition and shall be entitled to recover from the permit holder by civil action the actual expenses incurred by the City in restoring the premises, including, but not limited to, cost of labor, materials, overhead, rental of any equipment used by the City in restoring the site and attorneys' fees, and for such purposes, the City shall have a right of action against any bonds in effect running from the holder of the permit to the City, conditioned upon compliance with the ordinances of the City of DELEON in the performance of said work.

6. PENALTY. Any person who violates any provision of this Article shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$200.00. Each day of such violation shall constitute a separate offense. Such penalty shall be cumulative and not exclusive of any other rights or remedies the City of DELEON may have.

B. PERSONS REQUIRING PERMITS

1. CONTRACTOR'S REQUIREMENTS

a. Any contractor undertaking any work whether of his own, or under contract for any other person, and such work is within a City Street and requires that a set of plans be drawn up due to the extensive and/or complex nature of the work, will be subject to the provisions set forth in Section III, B-1, and must file for a permit before beginning construction. Proof must also be shown that he has obtained approval by other affected agencies of the City to actually perform the work.

b. A plan must be prepared by the contracting agency showing where work is to be performed. The plan will include a standard barricading layout showing placement of barricades, cones and informational signs used on the project. In most cases, layouts will be similar to those shown in the latter part of the attached Manual. Deviation from the Manual will be allowed only with approval of the responsible person or his appointed representative.

c. The plan as mentioned in step b above must be submitted a minimum of five (5) business days prior to actual beginning of the construction work. This time period will allow the designated department the opportunity to survey the construction site in an attempt to uncover any traffic problems which might develop as a result of the barricading.

d. Each contractor or construction agency will provide with his barricading plan a listing of all persons directly responsible for the safety on each project to include an address or a telephone listing at which said person can be reached at any hour of the day if a hazardous condition develops.

2. CONTRACT WORK BY CITY PREPARED CONSTRUCTION PLANS.

In the event the contractor undertakes work based on plans prepared by the designated department, all detour and barricading requirements will be inserted as part of the construction plans.

In this situation, the contractor's acceptance of the construction project will serve as indication that he understands the layout and is responsible subject to the penalties established in the attached Ordinance.

3. CITY FORCES AND PUBLIC UTILITY COMPANY REQUIREMENTS

a. All City forces, as well as public utility companies performing construction work within a street which requires that a set of plans be drawn up due to the extensive and/or complex nature of work, will be subject to the same requirements established in Section B-1 above. Such work would include major street construction (street cuts, street widening, etc.), water and sewerage line laying or relocation or off-street construction.

b. Construction work performed by City forces or utility companies, minor enough such that a set of plans need not be drawn up, will not be subject to the same requirements established in Section B-1 above. Such work includes minor street construction (re-surfacing, patching, striping), minor utility work (usage of manholes such that a lane must be barricaded), etc. These forces will be required, however, to comply with all other provisions set forth in this Manual as to the construction site barricade layout and signing. In addition, the responsible person or his authorized representative shall be contacted before said construction work is begun and be informed of the location and nature of construction. This work shall not be performed during the peak hour congestion periods of 7:00-9:00 A.M. and 4:00-6:00 P.M., unless approved by the responsible person.


C. EMERGENCY SITUATIONS. The requirements as mentioned above are to be used for all planned construction projects. In the event of an emergency type situation, notification of work to be done can be made by telephone directly to the responsible person or his appointed representative, thereby, bypassing the requirements mentioned above. Under these conditions the contractor or agency will still be required to follow the basic barricading standards as outlined in the attached Manual.

Passes, adopted and approved, this the
27th day of January, 1981.



Mayor

ATTEST:



City Secretary