

ORDINANCE NO. -01-236

AN ORDINANCE relating to Drainageways and Culverts, repealing inconsistent legislation, and declaring an emergency.

Whereas, all properties bear a responsibility to carry surface water across their boundaries under common law, and

Whereas, the City has a responsibility to insure that property owners fulfill their duties by establishing minimum standards for drainageways and culverts, and

Whereas, the City's limited funds require that property owners bear the full responsibility for maintaining the drainageways abutting their properties, now therefore:

THE CITY OF LAKESIDE ORDAINS AS FOLLOWS:

Section 1. New drainageways and culverts or repairs—Required when.

A. Property owners shall maintain at all times any drainageways and culvert or curb adjacent to their land in a reasonably safe condition and shall be liable for any damage or injury by a failure to do so. Nothing contained in this ordinance is intended to alter the duties and liabilities imposed by the City Zoning Ordinance.

B. No recourse whatsoever shall be had against the City, its council, Mayor, employees or agents for damage or loss to person or property arising out of the negligent or otherwise harmful maintenance of any drainageways and culverts described in subsection A of this section.

C. A property owner described in subsection A of this section shall indemnify, defend and hold the City, its Council, Mayor, employees and agents harmless against any claim, suit or action made against the City, its Council, Mayor, employees and agents as a result of any person's failure to fulfill the duty imposed by subsection A of this section.

D. In case the owner fails to keep such drainageways and culverts in repair, the council may proceed to repair or replace the same on the same notice and in the same manner as specified in the City Ordinance for the construction of new sidewalks.

E. No culvert shall be repaired where, in the judgment of the council, a new culvert should be installed, and the decision of the council as to whether an existing culvert should be repaired or a new culvert constructed in the place thereof shall be final and binding upon all property owners.

Section 2. Repair and Maintenance of Drainageways and culverts, in the Public Right-of-way.

A. It is declared to be the duty of the owners of all property in the city to keep the drainageways and culverts and the area along and adjacent to same clean and free from refuse

of all kinds.

B. No person owning real property shall cause or allow the drainageways and culvert, in the abutting public right-of-way to present an unreasonable risk of harm to persons or property.

C. For purposes of this section, drainageways and culverts, shall be deemed to present an unreasonable risk of danger to person or property if, among other things:

1. There exists in the drainageway or culvert, problem rainwater runoff (PRWRO), any pool of water accumulating in the public right of way because of rainfall that does not dissipate within twenty four hours after the rain ceases to fall.

2. A culvert installed after October, 2001 shall be manufactured of corrugated metal or other material approved by the Planning commission prior to installation, and shall be not less than 12 inches diameter.

3. A drainageway or culvert remains in a state of disrepair for a period of time exceeding 30 days after notice is provided to the property owner

D. The existence of drainageways and culverts, in such condition as to present an unreasonable risk of danger to persons or property hereby is declared to be a public nuisance and may be abated by any of the procedures set forth in the City's nuisance abatement ordinance.

E. A person who owns property that abuts a drainageways and culvert, in such condition as to present an unreasonable risk of danger to persons or property is civilly liable for all claims arising from that condition notwithstanding the person's notice of the condition and notwithstanding the time period allowed by law to correct same before abatement as a public nuisance.

Section 3. Permit issuance and fees.

A. The building clerk shall issue a permit upon approval of a permit application for construction and repairs to all drainageways and culverts within city rights-of-way.

B. A deposit or bond in the amount established by council resolution shall be collected from all applicants for new drainageways and culvert construction prior to issuance of a permit. The deposit shall be returned to the applicant upon inspection and approval by the city engineer's designee of the constructed or repaired drainageways and culvert. The deposit or bond shall be waived in the case of repairs to existing drainageways and culvert. The permit for each construction or repair shall declare the applicants responsibility for repair or replacement of any defective or damaged drainageways and culvert affected by this work.

C. A permit fee shall be collected by the city for each drainageways and culvert repair or construction permit in the amount established by council resolution.

D. No person shall construct a drainageways and culvert in the public right-of-way, except in accordance with current standards and specifications established by the city engineer or in accordance with the Zoning Ordinance.

E. No person shall construct drainageways or culverts without first obtaining a permit from the City and complying with the provisions of city ordinances. If the City is

requiring the construction, the permit shall state the date within which the work shall be completed.

Section 4. This ordinance repeals any and all inconsistent legislation, whether implicitly or explicitly specified herein, including Resolution 85-8.

Section 5. The Council declares that an emergency exists and this ordinance shall be in full force and effect from and after its adoption by the Council.

FIRST READ to the Council the 10th day of January, 2002.

PASSED by the Council this 10th day of January, 2002.

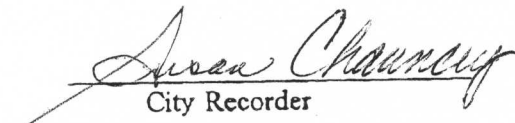
SIGNED by the Mayor this 10th day of January, 2002.

Effective this 10th day of January, 2002.



Mayor

ATTEST:



City Recorder