

**TITLE NINE
LAND USE AND DEVELOPMENT**

General Note: The City of Turner Land Use Development Code and City of Turner Comprehensive Plan are maintained separately from this Code but are incorporated into Title Nine of this Code in accordance with 1.25.09.

9.01.00 Public Rights-of-Way. Unless otherwise indicated, Ordinance 98-101 enacts Section 9.01.01 through 9.01.08.

9.01.01 Definitions. For the purpose of this section, the following mean:

(a) Landscaping. Any improvement of the right-of-way that involves movement of soils or change of grade, planting of vegetation or placing of decorative items.

(b) Public rights-of-way. Include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas.

(c) Within the City. Territory over which the city now has or acquires jurisdiction for the exercise of its powers.

9.01.02. Jurisdiction. The City of Turner has jurisdiction and exercises regulatory control over all public rights-of-way within the city under the authority of the city charter and state law.

9.01.03 Scope of Regulatory Control. The City has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The City has jurisdiction and regulatory control over each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication,

prescription, reservation, condemnation, annexation, foreclosure or other means.

9.01.04. City Permission Requirement.

No person may occupy or encroach on a public right-of-way without the permission of the City. The city grants permission to use rights-of-way by franchises, licenses and permits.

(a) Franchises. Franchises are established by separate ordinance for long term use of rights-of-way throughout the City. Requirements, conditions and compensation for the use the rights-of-ways are established in the ordinance.

(b) Licenses. Licenses for use of specific portions of public rights-of-way for a specific purpose may be granted by the City Council after review and recommendation of the city staff. Such uses are for periods of time exceeding 30 days continual use or 60 days in any calendar year. If approved, requirements and conditions may be established as a part of the approval process. Compensation for such use is established by resolution. Licenses must be renewed annually.

(c) Permits. All work or activity in the Right-of-Way not performed directly by the City and not covered under (a) or (b) of this section, shall require a permit. Permit requests shall be reviewed by the City Administrator and granted for activity which complies with all other local ordinances and regulatory constraints. Compensation for such use is established by resolution. (*Amend. Ord. 09-104 11/08/2009*)

9.01.05. City Permission Not Required.

City permission is not required for the following uses:

(a) Parking of private, currently registered and operable vehicles associated with private residences in public rights-of-way if there is no impact on traffic movement or vision clearance.

(b) Parking in marked or designated areas of the public rights-of-way in commercial and industrial areas. Parking in such rights-of-way cannot be used to meet parking requirements required by the City of Turner Land Use Development code.

(c) Delivery vehicles parked in the right-of-way for the purposes of loading and unloading as long as there is no impact on traffic movement or visual clearance. Under no circumstances will such vehicles park in the travel lanes of any street.

(d) Use of the right-of-way for construction related purposes. If such construction impedes or occupies normal travel lanes, traffic control measures must be in place.

(e) Residential property owners that are currently using portions of unimproved rights-of-way adjoining their residential property at the time this ordinance is adopted may continue to do so without further permission until that right-of-way is required for public use or development.

(f) The City requires that work in the Right-of-Way performed by private parties be substantially returned to its original condition prior to that work. (*Amend. Ord. 09-104 11/08/2009*)

9.01.06. Landscaping in public rights-of-way. Landscaping of unimproved portions of public right-or-ways adjoining private property is allowed and encouraged without a license or permit under the following conditions:

(a) The landscaping shall not encroach on streets, required shoulders, drainage ditches, pedestrian walkways, bike paths or other such uses of the rights-of-way. Landscaping must also not impact vision

clearance or otherwise create unsafe conditions in the right-of-way. Such landscaping is limited to unimproved rights-of-way immediately adjacent to the property of the person installing or maintaining such landscaping.

(b) No trees shall be planted without permission of the City. Landscaping is limited to grass, ground cover, plants not to exceed two feet in height and/or rock.

(c) It is the responsibility of the property owner to maintain landscaping amenities in right-of-ways adjacent to their property which is less than 8-feet in height. . This responsibility extends from any paved or unpaved vehicle travel surface to the property line and includes any shoulder or drainage area. Existing shrubs and trees are to be maintained so as not to encroach on vehicle travel lanes and required shoulders or to interfere with vision clearance at driveways and street corners as defined in the Turner Land Use Development Code, Section 5.122(7) and Turner Revised Code 5.13.04. The City Shall be responsible for maintaining proper clearance standards for tree obstructions in excess of 8-feet in height. Dead or dying vegetation must be removed. Grass, ground cover and noxious vegetation as defined by ordinance 89-103 must be mowed and controlled. (*Amend. Ord. 09-104 11/08/2009*)

(d) The landscaping will not be replaced or the property owner compensated if landscaping must be damaged or removed for installation or maintenance of utilities, street repair, drainage improvements or other such public purposes.

9.01.07 Obligations of the City. The exercise of jurisdiction and regulatory control over a public right-of-way by the city is not official acceptance of the right of way, and does not obligate the city to

maintain or repair any part of the right-of-way.

9.01.08. Enforcement and Penalties.

The City may enforce this section by citation or abatement or both.

(a) The City Administrator or any Police Officer shall have citation authority for purposes of enforcing this ordinance.

(b) It is unlawful for any person to violate any provision or to fail to comply with any requirement of this ordinance. Any person violating any provision or failing to comply with any requirement of this ordinance, unless provision is otherwise made herein, may receive a citation to appear in Turner Municipal Court and upon conviction thereof, may be punished by a fine of not more than Two Hundred (\$200) dollars in residential zones and Five Hundred (\$500) dollars in all other zones. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by such person and may be punished accordingly.

(c) Payment of any penalty is not allowed as a credit nor may be applied towards fees required by 9.01.04.

(d) In addition to or in lieu of penalties, the City may take abatement actions as established in 5.16.00 for nuisances.