



Code of Ordinances Chapter 28

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What is Chapter 28?

- Generally: Streets, Sidewalks, and Public Ground
- More specifically:
 - General requirements
 - processions and open air meetings
 - use and care of sidewalks, streets, and flood control works
 - excavation code
 - construction within the right of way
 - encroachments

Why Are We Re-writing Chapter 28?

- Needs modernization (telegraph poles)
- Needs to reflect current city operations
- Needs more accountability for contractors operating in the right of way
- Add flexibility for encroachments, outdoor dining and seating

What Changed?

- A lot!
- A complete re-write/reformat
- Some sections copied over with no changes
- Some divisions are completely new

Article Highlights

Article I – In General

Existing	New
View obstruction language was confusing for owners to understand	Clarified the requirements, added provisions for driveways
Street naming and addressing provisions	Moved to land development ordinance

Article Highlights

Article II – Processions and Open Air Meetings

Existing	New
Sections bounced around in content	Sections are standardized like the rest of the articles so the users are familiar with flow of the document

Article Highlights

Article III – Use and Care of Sidewalks, Streets, and Flood Control Works

Existing	New
Sections bounced around in content	Sections are standardized like the rest of the articles so the users are familiar with flow of the document
	Clarified that people cannot pile snow anywhere in the right of way from private property
	Property can be special assessed for sidewalk snow removal per NDCC

Article Highlights

Article III – Use and Care of Sidewalks, Streets, and Flood Control Works

Existing	New
	Clarified that property owners must also take care of boulevards
	Clarified that persons damaging flood control works are liable for the cost and guilty of an offense
	Added language for shared mobility devices (electric scooters) and made other ordinance revisions to allow for other similar users

Article Highlights

Article IV – Excavation Code

Existing	New
Did not exist	New section based on Fargo's code
Very basic license standards	Detailed standards with license required to do any work in right of way
City engineer can require a bond, but no guidance	Bond is now required, amount set at \$25,000. Typical through the state. Will cost contractors around \$300/year to obtain.
No codified warranty period	Two year warranty now codified

Article Highlights

Article IV – Excavation Code

Existing	New
Have existing indemnity language	Indemnity language updated
Simple revocation language	Updated language to specify why license may be revoked, appeal language added with process, council may revoke up to five years
No insurance requirements	Contractors must now carry insurance set by resolution

Article Highlights

Article IV – Excavation Code

Existing	New
Property owner could install their own sidewalks. Only a few issued every year.	No longer allowed. Too many issues of non-compliance. Now have to work under a licensed contractor
Permitting requirements only gave city basic information. Couldn't revoke permits	Permit requirements are uniform through the ordinance. Revocation and appeal language added.
No testing requirements	Testing requirements for trenches now enforced according to specs. Will cost contractors additional testing fees \$100-\$250 depending on work.

Article Highlights

Article IV – Excavation Code

Existing	New
	Work hours established from 7:00 am to 10:00 pm unless authorized by City
	Traffic control required Right of way restoration requirements established

Article Highlights

Article V – Construction within the Right of Way

Existing	New
Council can order sidewalk repairs but not new construction	Council can now order sidewalk construction and maintenance per NDCC
Residential driveway width essentially unlimited	Residential driveway maximum is 40 feet at property line
Industrial driveway max 40 feet	Industrial driveway can have width exception
No provisions for eliminating unused driveways	Restrictions placed on permits for unused driveways – must be removed

Article Highlights

Article VI – Encroachments

Existing	New
Only council can approved permanent encroachments	Permanent encroachments approved by staff. Report to council. Appealable to council. Revocation requirements established.
Outdoor dining section only covered outdoor dining	Updated to reflect outdoor dining, streatery, and parklets. Most of ordinance language removed and placed in policy. More flexibility, easier to update and modify.
	Now a yearly license

Article Highlights

Article VI – Encroachments

Existing	New
Small cell wireless installations required notice before permit issued. Not required for any other permit type. Likely not legal.	Modified to state city engineer may impose conditions to address concerns of adjacent property owners.

Next Steps

- Pass ordinance on 1st reading
- May 16th meeting
 - Pass ordinance on 2nd reading
 - Pass resolution setting fees and other requirements
 - Approve updated policies for outdoor dining and parklets, streateries, and encroachment licenses
- New fees and bond requirements will take effect for 2023 licenses
- Education year with contractors and users within the right of way

Questions?