

**ORDINANCE No. 06-02**

**AN ORDINANCE ESTABLISHING THE RIGHTS AND RESPONSIBILITIES  
OF ABUTTING PROPERTY OWNERS FOR UNDEVELOPED PORTIONS  
OF THE PUBLIC RIGHTS OF WAY**

The City of Sodaville ordains as follows:

Section 1. Title. This ordinance shall be known as the City of Sodaville Right of Way Ordinance and shall apply to all area within the City Limits of Sodaville.

Section 2. Purpose. This ordinance is intended to assign rights and responsibilities for the undeveloped portions of the public right of way abutting private property within the City Limits.

Section 3. Sidewalks and Driveway Approaches. It is not only the duty of all owners of land within the City to keep in repair all sidewalks and driveway approaches existing in front of, along, or abutting their respective lots or parcels of land or parts thereof, but the owners are hereby declared to be solely liable for all for all damages whatsoever resulting or arising from their fault or negligence in failing to keep any sidewalk or driveway approach in repair.

Section 4. Revocable License to Use the Undeveloped Portion of the Public Right of Way.

- A. Any owner of land within the City that abuts undeveloped or unimproved portions of the public rights of way has a revocable and nonexclusive license from the City to occupy and use those undeveloped portions of the public rights of way for landscaping, yards, gardens, fencing, and the appropriate storage of personal property. Any improvements shall comply with the vision clearance standards in section 4.045 of the Sodaville Zoning Ordinance. The improvements shall be of a temporary nature and easily removed from the public right-of-way. This license includes the right to exclude all other persons from the undeveloped portion of the public right of way except for persons allowed to enter the right of way by the City for public purposes including utility work.
- B. Where an undeveloped portion of the public right of way divides two lots or parcels, each owner's license extends only from the owner's property to the midpoint of the public right of way. Where a lot or parcel abuts a partially improved or developed portion of the public right of way, the owner's license extends only to the improvement or developed portion.

- C. The City Council may revoke the license given to any property owner to use the undeveloped portion of the public right of way when and if, in the sole discretion and judgment of the City Council, the public needs to use the right of way are inconsistent with the license. Except in response to an emergency situation declared by the City Council, if the license is to be revoked, property owners shall be notified in writing by the City 30 days in advance of revocation.

Section 5. Responsibility of the Property Owner.

- A. The owners of land within the City that abuts undeveloped or unimproved portions of the public rights of way have the responsibility to prevent and correct, at the owner's expense, any weeds, plants, trees, or shrubs, or portions thereof, growing on or over the abutting unimproved portion of the public right of way or any fencing or other improvement located within the right of way that constitutes a fire hazard, nuisance or other imminent danger to persons or property, or that impede vision clearance for vehicles on the improved portion of any street or driveway. The City shall be notified prior to the removal of any tree with a circumference exceeding four (4) feet measured one (1) foot above the ground. Removal of these trees requires the approval by the City Council.
- B. Where two lots or parcels are divided by an undeveloped portion of the public right of way, each owner is responsible for preventing or correcting fire hazards, nuisance, or dangerous conditions from that owner's property to the midpoint of the public right of way, but shall provide written notice to the other abutting property owner and the City should a nuisance or dangerous condition exist within the unimproved public right of way, beyond the midpoint.

Section 6. Liability of Property Owner.

- A. It is not only the duty of all owners of land within the City to keep in repair all sidewalks and driveway approaches in front of, along, or abutting their respective lots or parcels of land or parts thereof, but the owners are hereby declared to be solely liable for all damages whatsoever resulting or arising from their fault or negligence in failing to keep any sidewalk or driveway approach in repair.
- B. It is not only the duty of all owners of land within the City to prevent or correct all nuisance or dangerous conditions within the undeveloped or unimproved portions of the public rights of way that abut their land, but the owners are hereby declared to be solely liable for damages whatsoever resulting or arising from their fault or negligence in failing to prevent or correct any nuisance or dangerous condition within the undeveloped or unimproved portion of the public rights of way that abut their land.

- C. Where two lots or parcels are divided by an unimproved or undeveloped portion of the public right of way, each owner is solely liable for all damages whatsoever resulting or arising from their fault of negligence in failing to prevent or correct such nuisance or dangerous condition in the unimproved or undeveloped portion of the public right of way from that owner's property to the midpoint of the public right of way.

Section 7. Penalty. A violation of this ordinance shall be enforced pursuant to the City of Sodaville Nuisance Ordinance and Enforcement Ordinance.

Passed by the Council and approved by the Mayor this \_\_\_\_\_ day \_\_\_\_\_, 2006.

Mayor \_\_\_\_\_

City Recorder \_\_\_\_\_