

ORDINANCE NO. 867 (2007)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT
AMENDING CHAPTER 12.04 OF THE LAKEPORT MUNICIPAL CODE
BY REVISING THE CONSTRUCTION OF RIGHT-OF-WAY
IMPROVEMENT REGULATIONS**

WHEREAS, the Lakeport Municipal Code contains regulations regarding requirements for the construction of right-of-way improvements; and

WHEREAS, the regulations regarding construction of right-of-way improvements were implemented in 1993; and

WHEREAS, the regulations were updated in 2003 and again in 2006; and

WHEREAS, revisions to the regulations governing construction of right-of-way improvements have been considered by the Lakeport Traffic Safety Advisory Commission, and the Lakeport City Council;

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. Chapter 12.04 of the Lakeport Municipal Code is amended to read:

Chapter 12.04

CONSTRUCTION OF RIGHT-OF-WAY IMPROVEMENTS

Sections:

- 12.04.010** **Definitions.**
- 12.04.020** **Purpose.**
- 12.04.030** **Scope.**
- 12.04.040** **General provisions.**
- 12.04.050** **Implementing provisions.**
- 12.04.055** **Maximum required ROW improvements.**
- 12.04.060** **Exceptions and procedure for deferrals of right-of-way improvements.**
- 12.04.070** **Appeals.**

Section 12.04.010 Definitions: For the purpose of this chapter, the following words shall be defined as follows:

“Block” means any segment of a public street four hundred feet or less in length, or a portion of a street bounded by two intersecting streets at either cross streets, or “T” intersections which may be four hundred feet or less apart.

“Implementing Value” means the threshold of property improvements at which ROW improvements are required to be installed. This value is initially set at **\$45,000** and will be indexed to the Building Cost Index, 20-City average as published by the McGraw-Hill Engineering News Record.

“Person” means any person, individual, firm, partnership, association, corporation, company, or organization of any kind.

“Property improvements” means any new construction, phased construction, nonexempt repair, reconstruction, or improvement to a parcel which is subject to the requirements of a building permit.

“Property line” means the line of any parcel, as defined in this section, as established by any official map or plat or by any public agency or by a legally recorded deed or subdivision map.

“Right-of-way improvements” shall include curbs, gutters, sidewalks, street paveouts, drive approaches, handicapped ramps, water lines and appurtenances, sewer lines and appurtenances, storm drainage facilities, property dedications of right-of-way, street lights, pavement markings, signs, and street trees.

“Street” means any public street, highway, or public way or any street, highway, or way open to public use.

Section 12.04.020 Purpose: The purpose of this chapter is to establish requirements for right-of-way improvements for all parcels within the City of Lakeport on which property improvements are made.

Section 12.04.030 Scope: Provisions of this chapter apply to all parcels within all zoning districts within the City of Lakeport.

Section 12.04.040 General provisions:

- A. Improved or unimproved parcels: When property improvements of any type are proposed which exceed the Implementing Value on an improved or unimproved parcel, right-of-way improvements defined in this chapter shall be provided. Existing right-of-way improvements which are damaged, in a state of disrepair or ruin, or in a poor condition due to neglect shall be reconstructed to comply with the current City standards. The value of property improvements or maintenance projects shall be determined by the Community Development Department and shall be based on the construction costs adopted by the Building Department or based on a duly executed construction contract.
- B. Subdivided parcels: When a parcel is subdivided right-of-way improvements defined in this chapter shall be provided in accordance with the Lakeport Subdivision Ordinance.
- C. Planning Commission: In conjunction with an application for a land use application / entitlement, the City Planning Commission may require right-of-way improvements on all or a portion of the subject property’s frontage based on a review of project impacts or on the rule of rough proportionality law. These right-of-way improvements shall be embodied as conditions of approval. The improvements required as a condition of approval shall not be considered for a deferral. Decisions of the Planning Commission are subject to the appeal process outlined in Chapter 17.31 of the Lakeport Zoning Ordinance
- D. Repairs exempt from the requirements of this chapter: The improvement value for the following types of property improvements shall not be considered part of the property improvement implementing value:
 - 1. Repairs made to comply with existing state or local health department, sanitary or safety code specifications which are necessary solely to assure safe living conditions;

2. Repairs made to restore a structure to its pre-existing condition when damage has been caused by an accident or natural disaster such as a fire, earthquake, flood, slide, and/or an exceptionally strong wind;
3. Like-kind property maintenance projects such as re-roofing, replacement or upgrade of existing heating or cooling equipment, sewer or water line repair or replacement, installation of appliances, electrical or plumbing items, existing foundation repair, items bringing structures into compliance with the Americans With Disabilities Act, or similar maintenance or replacement work.
4. Improvements to accommodate the accessibility needs of the occupant / owner.
5. Improvements to elevate homes within a floodplain to the current standard.

The improvement value of all non-exempt property improvements made to a structure during the course of the exempt repairs shall be considered to contribute to the value of improvements. An improvement is defined as anything other than the like-kind replacement of the pre-existing condition. In the event of a dispute regarding the designation of an improvement, the decision shall be made by the City Building Official and can further be appealed to the City Manager.

Section 12.04.050 Implementing provisions:

- A. Value of Improvements: The value of phased property improvements shall be cumulative. In any **five** consecutive year period, when the prior total value of phased improvements added to the improvement value of the pending building permit exceeds the Implementing Value, full right-of-way improvements shall be required to be constructed. The obligation to install right-of-way improvements shall run with the parcel. Within a **five** consecutive year period prior to the application for a building permit, all successive property owners shall be obligated by the improvement value established by previous owners.
- B. Inflation Adjustment: The City Council finds that the cost of constructing property improvements is subject to inflation and other cost increases and that the Implementing Value should be adjusted each year to reflect such increases. On January 1 of each year the Implementing Value shall be adjusted to reflect the change in the Building Cost Index for the previous 12-month period for which such data is available. The initial adjustment shall be based on the difference between the Building Cost Index at the time of adoption of this ordinance and the value of the index at the end of calendar year. The Building Cost Index to be used shall be the 20-City average Building Cost Index as published in the McGraw-Hill Engineering News Record.
- C. Location of property lines and establishment of grades: The location of property lines and the establishment of grades needed for the installation and construction of right-of-way improvements shall be established by a registered civil engineer or professional land surveyor licensed by the State of California, and shall be the responsibility of the property owner or the person developing the subject property. Property line locations and elevations shall be approved by the City prior to the start of construction of right-of-way improvements.
- D. Inspection of right-of-way improvements: The director of public works or such other official as the City Council may designate, shall have the power to appoint qualified persons to inspect construction of the work specified in this chapter.

- E. California Streets and Highways Code: Right-of-way improvements shall be installed and constructed pursuant to the provisions set forth in the Streets and Highways Code.
- F. Standards: Right-of-way improvements shall be constructed to standards established from time to time by the City of Lakeport by City resolution of the City Council.
- G. Bond or other guarantee of installation: The building inspector shall deny final inspection and occupancy, and shall refuse to allow final public utility connections to any such building or dwelling, unless said right-of-way improvements exist, are constructed, or unless a financial security agreement or bond to guarantee the construction is deposited with the City. The amount of the financial security shall be as determined by the director of public works.

Section 12.04.055 Maximum required ROW improvements:

- A. The City Council recognizes that the requirement to provide right of way improvements for lots with more than 130' of street frontage may pose a hardship to a property owner wishing to construct or maintain a single family residence.
- B. Property owners with parcels having more than 130' of street frontage who are required to provide right of way improvements by this ordinance shall only be responsible for installing 130' of right of way improvements under the following conditions:
 1. The property remains under the same ownership.
 2. There is no change in use or intensification in use of the property as demonstrated by an application to the city.

If the property changes ownership the building valuation totals will start anew. Improvements constructed by the previous owner and receiving a final approval by the Building Department prior to the change in ownership shall not be included in the cumulative improvement value. The new owner will not receive credit for any prior right of way improvements installed and will be responsible for the installation of 130' of right of way improvements if the cumulative improvement value exceeds the Implementing Value.

Section 12.04.060 Procedure for deferrals of right-of-way improvements:

Some or all of the right-of-way improvements required pursuant to this chapter may be deferred by action of the City Manager in accordance with the following:

- A. Deferral or modification of the requirements to construct right-of-way improvements because of unique or unusual conditions may be considered by the City Manager. Applicants for deferral or modification of right-of-way improvements pursuant to this Section shall submit a formal request, pay applicable fees, and submit a written explanation and a detailed plan which specifies the unique or unusual conditions associated with the proposed construction of right-of-way improvements. The City Manager shall consider the request, make a decision, and adopt the appropriate findings.
- B. Deferral of right-of-way improvements may also be granted by the City Manager if the following conditions are found to exist:
 1. The parcel is being developed for use as a single family residence or in conjunction with a single family residence in an R-1 zone; and

2. The parcel does not front an arterial or collector street; and
 3. More than fifty percent of the adjacent or fifty percent of the opposite street frontages within a block, or within a distance as measured two hundred feet in each direction from the center of the parcel (whichever is the greater distance), on either side of the street, does not have sidewalk, curb and/or gutter installed; or does not have deferral agreements in place to install same. In computing the percentage of curb, gutter, and/or sidewalk, the frontage of the property being considered shall be credited with having said right-of-way improvements installed; and
 4. The City Engineer determines that deferral will not be contrary to the public welfare by reason of traffic control, pedestrian safety, drainage control, street design, street maintenance, or like matters; or
 5. The City Manager determines that (1) the requirement for construction of right-of-way improvements would impose an unusual hardship on the applicant, and (2) the City Manager determines that a deferral will not be contrary to the public welfare by reasons of traffic control, pedestrian safety, drainage control, street design, street maintenance, or like matters.
- C. Property owner(s) wishing to defer the installation of right-of-way improvements shall submit the Request for Deferral form to the City Clerk with the appropriate fee.
- D. Property owner(s) who are granted a deferral by the City shall be required to execute an agreement which specifies a maximum ten (10) year period subject to City extension, this agreement shall run with the land and be recorded to at the Lake County Recorders Office. The agreement and a bond, cash deposit, or other form of security, as required by the City Manager and approved by the City Attorney, shall be required and shall be provided by the property owner(s) prior to the issuance of a building permit.

Section 12.04.070 Appeals:

- A. The determination to construct right-of-way improvements by the City Manager shall be subject to review by the City Council.
- B. A person dissatisfied with the determination of the City Manager may appeal therefrom by filing a written notice to the City Council within ten days after notice of the exercise of the determination. Thereafter, the Council shall set such appeal for hearing before it and hear the appeal at the next regular Council meeting.
- C. The decision of the City Council shall be final and binding upon all parties.

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This ordinance was introduced before the City Council of the City of Lakeport at a regular meeting thereof on the 7th day of August, 2007, by the following vote:

AYES: Council Members Bruns, Rumfelt, Irwin, and Bertsch, and Mayor Parmentier
 NOES: None
 ABSENT: None
 ABSTAINING: None

This Ordinance was duly enacted by the City Council of the City of Lakeport at a regular meeting thereof on the 4th day of September, 2007, by the following vote:

AYES: Council Members Bruns, Rumfelt, Irwin, and Bertsch, and Mayor Parmentier
NOES: None
ABSENT: None
ABSTAINING: None

Roy Parmentier, Mayor

ATTEST:

Janel M. Chapman, City Clerk