

## CHAPTER 20

### STREETS, ALLEYS, SIDEWALKS

#### Article

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#### Nebraska Statutes

For statutory provisions on city authority to regulate street use, see R.R.S. §16-207 et seq.

### ARTICLE 1

#### STREETS, BUILDINGS, DESIGNATION

#### Section

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#### Nebraska Statutes

For statutory provisions on house numbers, see R.R.S. § 16-614.

#### **20-1-1. Streets; names; numbers; required; adoption; procedure.**

All streets within the City shall be designated by appropriate name or number in such manner as the City Manager or the designee of the City Manager shall suggest in the first instance, taking into consideration the plan followed in naming and numbering the same in the Original Town and

subsequent additions thereto, which suggestions, together with amendments or alterations, if any, desired by the City Council, shall be adopted from time to time by ordinance. (Ord. 1116)

**20-1-2. Unnamed platted streets, alleys, ways, name.**

The following platted streets, alleys or public roads or ways for which no name appears in the plat are hereby named as follows:

- (1) in Bluffs Tracts, the unnamed road or public way is named 37th Street,
- (2) in TL I 1, NE 1/4, Sec. 27, 22N, R 55W, the unnamed north-south street is named Avenue Q,
- (3) in Park View Tracts, the unnamed north-south Street (sometimes known as Park View Lane) is named Avenue O, and the Alley and abutting unnamed way are named West 11th Street,
- (4) in Schlichtemier Subdivision, the unnamed Public Road situated between the South boundary of Lot 4 and the North boundaries of Lots 5 and 6 is named 112th Street, and the unnamed Public Road abutting the East boundaries of Lots 1, 3, 4 and 6, and extending from the South Boundary of West Overland Drive to an Easterly extension of the South Boundary of Lot 6 is named Buckeye Avenue, and
- (5) in Bluffs View Tracts, the Alley and abutting unnamed way are named West 11th Street. (Ord. 3510, 1996)

**20-1-3. Names, platted streets, alleys, ways, names changed.**

The names of the following streets and alleys, or part of a street or alley, as shown in plats thereof are hereby changed to read as follows:

- (1) in Idlewylde Addition, Blocks 6 and 7, Larkspur Drive is renamed Larkspur Court,
  - (2) in James Tracts, James Street is renamed Avenue R,
  - (3) in Willana Park Second Addition, Larkspur Drive is renamed Sunrise Drive,
  - (4) in Northeast Second Addition and Fifth and Twenty-seventh Addition, respectively, 7th Avenue is renamed Circle Drive,
  - (5) in Sample Subdivision, Service Road is renamed West 11th Street,
  - (6) in Leeling Subdivision, Hackberry Avenue is renamed Paradise Haven.
  - (7) in Sitzman Subdivision, Broadway Avenue is renamed Ross Avenue,
  - (8) in Quindt Commercial Tracts, Frontage Road is renamed Circle Avenue,
  - (9) the name of that portion of 7th Avenue as platted between 26th and 27th Streets is renamed Circle Drive,
  - (10) that portion of Frontage Road located north and east of U.S. Highway No. 26 is renamed North Frontage Road.
  - (11) that portion of Frontage Road located south and west of U.S. Highway No. 26 is renamed "South Frontage Road.
  - (12) Ruory Drive is renamed as and made a part of 34th Street.
  - (13) The remaining remnant of West 39<sup>th</sup> Street is renamed as Burlington Boulevard.
- (Ord. 3510, 1996; Ord. 4184, 2016)

**20-1-4. South Belt Line Highway.**

That part of the southernmost continuous public street or road in the City which extends from Broadway Avenue to Avenue B (and commonly is known as 5th Street) and thence in a northwesterly and westerly direction to the corporate limits of the City, as now or hereafter constituted, is hereby named South Belt Line Highway West. That part of the southernmost continuous public street or road in the

City which extends from Broadway Avenue to 5th Avenue (and commonly is known as 5th Street) and thence in an easterly and southeasterly direction to the corporate limits of the City, as now or hereafter constituted, is hereby named South Belt Line Highway East. (Ord. 3510, 1996)

**20-1-5. College Park.**

The name of the following street, as shown in the plat thereof is hereby changed as follows:

In Sykes Addition, Blocks One through Five, Sykes Boulevard is renamed College Park. (Ord 3789, 2004)

**20-1-6. Avenue K segment.**

There hereby is dedicated to public use as a public street of the City the following described unplatted tract of land situated in the Northeast Quarter (NE 1/4) of Section Twenty-seven (27), Township Twenty-two (22) North, Range Fifty-five (55) West of the 6th Principal Meridian, in the City of Scottsbluff, Scotts Bluff County, Nebraska:

Beginning at a point 708.7 feet West and 33 feet South of the Northeast corner of such Section; thence South 905.6 feet; thence West 21 feet; thence North 905.6 feet; thence East 21 feet to the point of Beginning, and such street is hereby named a segment of Avenue K of the City. (Ord. 3063, 1987)

**20-1-7. Repealed by Ord. 3510, 1996.**

**20-1-8. Repealed by Ord. 3510, 1996.**

**20-1-9. Markers; required; specifications; maintenance.**

All streets shall be plainly marked at each corner by signs bearing their proper names or numbers legibly painted in letters and figures, in dimensions at least two and one-half (2½) inches high.

**20-1-10. Signs; removal; injury; prohibited.**

It shall be unlawful for any person to remove, deface or injure any street sign, name or number.

**20-1-11. Buildings; numbering; plan; duty.**

All residences, storerooms, and other buildings facing on any street in the City shall be numbered. In the case of streets that run from a southerly to a northerly direction, buildings on the east side shall bear odd numbers, and buildings on the west side shall bear even numbers, the first number in each block to be that of the intersecting street immediately to the south multiplied by one hundred (100). In the case of streets east of Broadway Avenue, or a geometrical projection thereof, that run in a westerly to easterly direction, buildings on the north side shall bear odd numbers, and buildings on the south side shall bear even numbers, the first number in each block to be that of the intersecting street immediately to the west multiplied by one hundred (100), except that in blocks abutting upon Broadway Avenue the first number in each block shall be one (1). In the case of streets west of Broadway Avenue, or a geometrical projection thereof, that run in an easterly to westerly direction, buildings on the north side shall bear odd numbers, and buildings on the south side shall bear even numbers, the first number in each block to be that of the intersecting street immediately to the east multiplied by one hundred (100), except that in blocks abutting upon Broadway Avenue, the first

number in each block shall be one (1). One (1) number shall be used for each twenty five (25) feet of lot line, unless the City Manager shall designate a lesser distance. The City Manager, or the designee of the City Manager, shall assign the number to be borne by each building. (Ord. 1116)

**20-1-12. Numbers; display; owner, occupant; duty.**

Each number referred to in this Article shall be displayed in a conspicuous place upon the residence, storeroom or other building to which the number has been assigned, or upon the curb in front of the premises, in figures not less than two and one-half (2½) inches high and in accordance with other standard specifications prescribed by the City Manager or the designee of the City Manager. It shall be the duty of the owner and the occupant of every residence, storeroom or other building to which a number has been assigned as provided in this Article to display such number in the manner provided in this section, and it shall be unlawful for any person to number any building except in strict compliance with the provisions of section 20-1-11. (Ord. 1116)

**20-1-13. Numbering; violations; penalty.**

A violation of any provision of this Article is a Class I violation.

**ARTICLE 2**

**STREETS; IMPROVEMENT;  
MAINTENANCE**

**Section**

[20-2-1](#) [Gutters; street corners; specifications.](#)  
[20-2-2](#) [Cost; assessment; levy; collection.](#)

**Nebraska Statutes**

**For statutory provisions on grading and repair of streets. see R.R.S. § 16-249 for provisions on street improvement, see R.R.S. § 16-609 et seq.**

**20-2-1. Gutters; street corners; specifications.**

The form, width and depth of the gutter and corner of streets, together with the specifications concerning the construction of the same, shall be determined by the City Manager or the designee of the City Manager in each case as such street improvement may be ordered by the City Council. (Ord. 1116)

**20-2-2. Cost; assessment; levy; collection.**

All special assessments upon lots and pieces of ground adjacent to and abutting upon the street or alley in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaved, graveled, macadamized, parked, extended, constructed or otherwise improved or repaired or which may be specially benefitted by any of such improvements shall be made by the City Council at any meeting by a resolution fixing the costs of such improvement work along the lot or parcel of land adjacent thereto as a special assessment thereon, which, with the amount charged against the same

and the vote thereon by “yeas” and “nays,” shall be spread at length upon the minutes. Such assessments shall be known as “special assessments for improvements,” and, together with the cost of notice, shall be levied and collected as a special tax, in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other city taxes. The same shall be certified to the County Clerk at the same time as the next certification for general revenue purposes. (Ord. 1116)

### ARTICLE 3

#### SIDEWALKS, CURBS; CONSTRUCTION; REPAIR

##### Section

<a href="#">20-3-1</a>	<a href="#">Sidewalks; grade.</a>
<a href="#">20-3-2</a>	<a href="#">Same; distance from lot line.</a>
<a href="#">20-3-3</a>	<a href="#">Same; curb sidewalks; variance.</a>
<a href="#">20-3-4</a>	<a href="#">Same; width; slope; Broadway Avenue; main business district.</a>
<a href="#">20-3-5</a>	<a href="#">Same; width; other streets.</a>
<a href="#">20-3-6</a>	<a href="#">Same; thickness; foundation; bed; topping coat; finishing.</a>
<a href="#">20-3-7</a>	<a href="#">Curbs; specifications.</a>
<a href="#">20-3-8</a>	<a href="#">Other plans; specifications; preparation; approval; compliance.</a>
<a href="#">20-3-9</a>	<a href="#">Sidewalks; new construction; property owner; notice to.</a>
<a href="#">20-3-10</a>	<a href="#">Repair; safe condition; property owner; duty.</a>
<a href="#">20-3-11</a>	<a href="#">Same; property owner; notice; replacement, reconstruction, repairs.</a>
<a href="#">20-3-12</a>	<a href="#">Same; notice; contents; service.</a>
<a href="#">20-3-13</a>	Reserved.
<a href="#">20-3-14</a>	<a href="#">Construction; reconstruction; repair; by City; assessment.</a>
<a href="#">20-3-15</a>	<a href="#">Construction; by property owner; permit; survey; required.</a>
<a href="#">20-3-16</a>	<a href="#">Same; permit; application; approval.</a>
<a href="#">20-3-17</a>	<a href="#">Same; survey; conformity with; fees.</a>
<a href="#">20-3-18</a>	<a href="#">Exceptions.</a>
<a href="#">20-3-19</a>	<a href="#">Violations; classification.</a>

#### Nebraska Statutes

**For statutory provisions on construction and repair of sidewalks, see R.R.S. § 16-250; § 16-661 et seq. and § 19-2417 et seq.**

##### **20-3-1. Sidewalks; grade.**

All sidewalks shall be constructed upon the established grade for the City as shown by the Grade Book. Provided, if the sidewalk is to be constructed at a place where the street has not been brought to the grade established by the City, the City Council may by resolution permit such sidewalk to be built on such grade as the resolution may provide. (Ord. 1116)

**20-3-2. Same; distance from lot line.**

The inside edge of all sidewalks within the Fire Limits shall abut the lot line. The inside edge of all sidewalks lying outside the Fire Limits shall be twelve (12) inches from the lot line; provided, curb sidewalks may be constructed in circumstances as herein provided. Curb sidewalks may be constructed in areas outside the corporate limits:

- (1) extending for not less than the whole length of the block, at the election of the owners of the adjoining lots or tracts of land, or
- (2) extending for less than the whole length of the block, at the election of the owners of the adjoining lots or tracts of land, if a variance for that purpose shall be granted by the City Council as provided in this Article.

Curb sidewalks may be constructed in areas inside the corporate limits:

- (1) upon application to the City Clerk of the City on forms provided for that purpose, and
- (2) with the written consent of adjoining landowners, and
- (3) with approval of the City Manager or the designee of the City Manager. (Ord. 3220, 1992)

**20-3-3. Same; curb sidewalks; variance.**

The City Council, upon the filing with the City Clerk of an application as herein provided, may grant a variance permitting the construction of a curb sidewalk extending for less than the whole length of a block if the City Council shall find that:

- (1) strict application of the requirement that a curb sidewalk extend not less than the whole length of a block would create peculiar and exceptional practical difficulties, or exceptional and undue hardship to users of the sidewalk or adjacent lots or tracts,
- (2) such hardship is not shared generally by other properties in the same vicinity,
- (3) the authorization of such a variance will not be of substantial detriment to adjacent property and the character of the area will not be changed by the granting of the variance, and
- (4) the granting of such a variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

The application for such a variance shall be in writing, in such form as the City Clerk shall prescribe, and shall be signed by the owner(s) of all lots or tracts which would abut the proposed curb sidewalk. The City Clerk shall cause a courtesy notice of such an application, to be given to the owner(s) of lots or tracts in the same block which abut or are adjacent to noncurb sidewalks on the same side of the street which have been or may be constructed. (Ord. 2752, 1982)

**20-3-4. Same; width; slope; Broadway Avenue; main business district.**

The width of all sidewalks in front of lots abutting on Broadway Avenue shall be as follows:

- (1) lots between 16<sup>th</sup> Street and 19<sup>th</sup> Street, sixteen (16) feet,
- (2) lots between railroad right-of-way of Burlington Northern, Inc., and 16<sup>th</sup> Street, and between 19<sup>th</sup> Street and 20<sup>th</sup> Street, fourteen (14) feet, and
- (3) all other lots, five (5) feet.

The width of all sidewalks on East 15<sup>th</sup> Street between Broadway Avenue and 1<sup>st</sup> Avenue, and on 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> Streets, and on the South side of 20<sup>th</sup> Street, all between Avenue A and 1<sup>st</sup> Avenue, shall be ten (10) feet.

All such walks shall have a continuous slope for drainage from the building line to the curb, in accordance with plans and specifications approved by the City Council or, in the absence thereof,

by the City Manager or the designee of the City Manager. (Ord. 2741, 1982)

**20-3-5. Same; width; other streets.**

The width of all sidewalks on all other streets, and parts of streets, in the City shall be not less than the following:

- (1) curb sidewalks, five (5) feet,
- (2) other sidewalks (located twelve (12) inches from property line), four (4) feet. (Ord. 2741, 1982)

**20-3-6. Same; thickness; foundation; bed; topping coat; finishing.**

All sidewalks shall be constructed of concrete with good and sufficient foundation. The foundation shall be of gravel, broken stone or cinders, must be firm, porous and well compacted and of sufficient thickness and have suitable and sufficient drainage to prevent all settling and cracking. The concrete bed, except the part thereof subject to vehicular travel, shall be not less than four (4) inches in thickness; the part thereof that is subject to vehicular travel shall be not less than five (5) inches in thickness. It shall be composed of one (1) part of cement, three (3) parts of sand, and six (6) parts of gravel, broken stone or cinders, and shall be cut through into blocks not more than four by six (4x6) feet in size. The topping coat shall be a coat of cement mortar composed of three (3) parts cement and five (5) parts of coarse, sharp, clean sand. After finishing with a straight edge, the topping shall be cut through on the lines of the joints already formed, and the edges shall be rounded or beveled. (Ord. 1116)

**20-3-7. Curbs; specifications.**

Curbs, where constructed without gutters, shall be four (4) inches wide at the top and not less than six (6) inches wide at the street surface, shall be firmly set into the ground so as to prevent all defective alignment, and shall not rise to exceed one (1) inch above the surface of the sidewalk immediately adjacent thereto. All curbs shall be constructed of natural or cement stone, and the surface shall be finished in the same manner as is provided in this Article with respect to sidewalks. (Ord. 1116)

**20-3-8. Other plans; specifications; preparation; approval; compliance.**

The City Manager, or the designee of the City Manager, shall prepare such other plans and technical specifications as to the construction or reconstruction of sidewalks and curbs from time to time as public safety and convenience require, and all sidewalks and curbs hereafter constructed or reconstructed shall conform to such of those plans and specifications as may be approved by the City Council. (Ord. 1116)

**20-3-9. Sidewalks; new construction; property owner; notice to.**

Whenever the City Council shall order that a sidewalk be constructed in front of any lot or piece of ground in the City in a place where there is no sidewalk, the City Manager, or the designee of the City Manager, thereupon shall notify in writing the owner of such lot or piece of ground of the work or improvement to be done, and such owner so notified shall be allowed one year from the service of such notice within which to construct such sidewalk. Such notice shall be given by delivering the same to the owner in person or by leaving it at his usual place of residence in the City, or if he or she be a nonresident of the City, by publication of such notice one time in a legal newspaper published

in and of general circulation in the City. Such notice shall notify such owner of the passage of the resolution ordering the construction of such sidewalk; that he or she will have one year from and after the service of notice upon him or her in person or by leaving it at his or her usual place of residence in the City, or from day of publication in the event of notice in that manner, within which to construct the sidewalk so ordered or cause the same to be done; and that if he or she fails to construct such sidewalk, or cause the same to be done, within one year after such notice, then and in that case the City will cause such sidewalk to be constructed and the cost will be levied and assessed thereafter by the City Council as a special tax against such premises. (Ord. 1116; Ord. 3685, 2001)

**20-3-10. Repair; safe condition; property owner; duty.**

Every owner of any lot or lots, or piece of land within the City shall at all times keep and maintain the sidewalk in the area contiguous to such lot, lots or pieces of land, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers, and it shall be unlawful for such owner to allow such sidewalk to be placed or remain in a dangerous condition. (Ord. 1116; Ord. 3691, 2001)

**20-3-11. Same; property owner; notice; replacement, reconstruction, repairs.**

Whenever the City Council shall order that any sidewalk be replaced, reconstructed or repaired, the City Manager or the designee of the City Manager, shall designate, shall serve upon the owner of the lot or tract contiguous or adjacent to which the sidewalk is situated a notice to cause such work to be done. Such work shall be done within one year after service of the notice, unless the City Council shall find there exists, because of disrepair of the sidewalk, a hazard to persons or property which is so immediate and substantial as to require replacement, reconstruction or repair sooner, in which event the City Council may order the work to be done in such lesser reasonable time as the City Council shall specify, and the work shall be done by the owner of the contiguous or adjacent lot or tract within the time so specified.(Ord. 3680, 2001)

**20-3-12. Same; notice; contents; service.**

The notice referred to in section 20-3-11 shall be in writing signed by the City Manager, and be addressed to the owner of the contiguous or adjacent lot or tract, and shall notify the owner that the City Council has ordered the sidewalk to be replaced, reconstructed or repaired; shall identify the sidewalk or part thereof as to which such work is to be done; shall describe repairs, if any, to be made; shall state the time within which such work shall be completed; and shall inform the owner that, upon the owner's failure to cause the work to be done as ordered, the City will do the work, or cause it to be done, and will assess the cost thereof to the lot or tract as authorized by law. Service of the notice shall be made by delivering a copy thereof to the owner if the owner resides within the corporate limits of the City. Provided, if the owner does not reside, or after diligent search cannot be found, within the corporate limits of the City, a copy of the notice shall be sent to the owner by certified or registered mail to the last known address of the owner; provided, further, if no address of the owner can be ascertained after diligent inquiry, a copy of the notice shall be delivered to the person, if any, who is in actual possession of the premises or a person who is the agent of the owner for the purpose of renting, or collecting rentals on, the property or, if the premises are unoccupied, shall be posted in a conspicuous place on the premises. Service of notice by mailing or posting shall be deemed complete upon mailing or posting as herein provided. (Ord. 3097, 1988)



**20-3-13. Reserved.**

**20-3-14. Construction; reconstruction; repair; by City; assessment.**

If any such owner shall neglect or refuse, or shall have failed after notice has been given as provided in this Article, to construct, reconstruct or repair any sidewalk within the time limited in the notice given in such case, and whose duty it is made by this Article to construct, reconstruct or repair such sidewalk, the City Manager shall proceed at once without further notice to such owner or person to have such sidewalk constructed, reconstructed, or repaired, as the case may be, and the expense of such work shall be assessed to such lot or piece of land, and collected as provided by law. Provided, nothing in this Article shall be construed to limit the power of the City to construct, reconstruct or repair sidewalks and, as the case may be, assess the cost thereof, all in a manner authorized in statutes of the State of Nebraska which do not require, as a condition precedent to the doing of the work by the city and assessment of the cost thereof, a notice to abutting landowners to do the work. (Ord. 2742, 1982; Ord. 3691, 2001)

**20-3-15. Construction; by property owner; permit; survey; required.**

Any person desiring to construct or cause to be constructed any sidewalk or curbing on any street or avenue abutting his or her property in the City shall obtain a permit and survey as hereinafter provided; and it shall be unlawful for any person to construct any sidewalk or curbing without first having obtained such permit and survey. (Ord. 1116)

**20-3-16. Same; permit; application; approval.**

Application for such permit shall be made in writing, shall contain a description of the lot or piece of land along which it is desired to construct such sidewalk or curbing, and shall be filed in the office of the City Clerk. Upon the filing of such application, the City Clerk shall deliver the same to the City Manager who shall grant such permit unless good cause shall appear why such permit should be denied. Provided, if it is desired to construct such sidewalk or curbing at other than the regularly prescribed location, grade or elevation, or such curbing of other than the regularly prescribed type of construction, the City Manager, or his or her designee, shall submit such application to the City Council, who shall determine whether such permit shall be granted or denied. (Ord. 1116)

**20-3-17. Same; survey; conformity with; fees.**

When a permit is granted for construction of sidewalk or curbing, the City Manager shall cause to be made a survey and shall cause stakes to be set indicating the location, grade and elevation of such sidewalk or curbing, and it shall be unlawful for any person to construct or cause to be constructed such sidewalk or curbing at any other location, grade or elevation than so designated. Such survey shall be made and stakes set within ten (10) days after a permit is granted as provided in this section. The fees of such engineer shall be paid by the City, but if the person obtaining the permit and survey fails or neglects to construct such sidewalk or curbing within sixty (60) days thereafter, such applicant shall be liable to the City for the expense of such survey as determined by the City Manager, or the designee of the City Manager, which amount shall be included in the special assessment and considered as a special benefit.

**20-3-18. Exceptions.**

The City Council, for good cause shown, may grant an exception to any of the requirements in this

Article. (Ord. 3432, 1995)

This section was renumbered by the City Clerk pursuant to §14-2-9.

**20-3-19. Violations; classification.**

A violation of any provision of this Article is a Class II violation. Each day of violation after the giving of the notice described in section 20-3-11 shall constitute a separate offense.

This section was renumbered by the City Clerk pursuant to §14-2-9.

**ARTICLE 4**

**PARKING: IMPROVEMENTS**

**Section**

<a href="#"><u>20-4-1</u></a>	<a href="#"><u>Parking; improvement; Council may order, permit; by resolution.</u></a>
<a href="#"><u>20-4-2</u></a>	<a href="#"><u>Retaining walls; restrictions; general.</u></a>
<a href="#"><u>20-4-3</u></a>	<a href="#"><u>Fences; restrictions; general.</u></a>
<a href="#"><u>20-4-4</u></a>	<a href="#"><u>Decorative landscape features.</u></a>
<a href="#"><u>20-4-5</u></a>	<a href="#"><u>Same; permitted fences, walls.</u></a>
<a href="#"><u>20-4-6</u></a>	<a href="#"><u>Same; removability; removal.</u></a>
<a href="#"><u>20-4-7</u></a>	<a href="#"><u>Violations; penalty.</u></a>

**20-4-1. Parking; improvement; Council may order, permit; by resolution.**

The City Council may by resolution permit the use for parking or lawn of any portion of any street within the City that, in the judgment of the City Council, shall not be required for actual travel. The permission may be revoked by the City Council at any time it finds that such portion is required by the City. (Ord. 1116)

**20-4-2. Retaining walls; restrictions; general.**

A retaining wall not exceeding eighteen (18) inches in height may be constructed within the area between the lot line and curblines if situated a distance of not less than two (2) feet from the inside edge of the sidewalk or, if there be no sidewalk, not less than five and one-half (5½) feet from the curblines and if, in addition:

- (1) the City Manager, or the designee of the City Manager, determine that the wall is reasonably necessary for landscape structural or design purposes, or
- (2) the wall is a decorative landscape feature. Provided, such a retaining wall may be constructed less than two (2) feet from the inside edge of the sidewalk or, if there be no sidewalk, less than five and one-half (5½) feet from the curblines (but not within the area in which a sidewalk, conformable in design to existing sidewalks on adjacent property, could be constructed) if the City Manager, or the designee of the City Manager, determine that the wall in such location is reasonably necessary to provide support to soil or to accomplish a coherent or aesthetic grade design. (Ord. 2681, 1981)

**20-4-3. Fences; restrictions; general.**

No fence shall be erected or maintained in the area between the lot line and the curblines adjacent to a required front yard or side yard of a lot or tract of land zoned residential, except as authorized in this Article. (Ord. 2681, 1981)

#### **20-4-4. Decorative landscape features.**

No decorative landscape feature, to include fences or retaining walls, shall be placed or maintained (a) for corner lots, within a triangular area bounded on two sides by the intersecting street right-of-way lines and on the third side by a line connecting points on each right-of-way line which are 20 feet from their intersection, or (b) for all other lots, within the area between the lot line and curblines, unless:

- (1) it is located at least 2 feet from the inside edge of the sidewalk or, if there be no sidewalk, at least 5½ feet from the curblines;
- (2) it is no more than 30 inches high, measured above the nearest surface of pavement of the nearest street, or 12 inches high if located within 8 feet from a fire hydrant;
- (3) it does not occupy in excess of 50 percent of the front footage of the lot;
- (4) it does not materially obstruct the vision of operators of motor vehicles whether from a street or private driveway; and
- (5) in the case of a decorative fence, at least 50 percent of the total vertical area of the fence is open.

No decorative landscape feature shall be placed or maintained within the restricted area if the Planning and Building Official shall determine that the decorative landscape feature constitutes, or would constitute, a hazard to pedestrians. In addition, all decorative landscape features must comply with any applicable provisions of Chapter 25 of the Municipal Code. (Ord. 3342, 1994)

#### **20-4-5. Same; permitted fences, walls.**

Decorative landscape features which are permitted under this Article, but are not limited to:

- (1) split-rail decorative fences,
- (2) ornamental iron decorative fences, not including chain-link fences,
- (3) wood decorative fences,
- (4) brick decorative fences and solid decorative retaining walls. (Ord. 2681, 1981)

#### **20-4-6. Same; removability; removal.**

Anything in any other section of this Article to the contrary notwithstanding, any decorative landscape feature constructed within the area between the curb and lot line shall be of such material and design that it will be readily removable, as determined by the City Manager, or the designee of the City Manager, in the event of widening of the traveled portion of the street, the construction of sidewalks (if within the sidewalk area), or the construction, maintenance, replacement or operation of any water or sanitary sewer main or service line, sanitary sewer, gas line, or power, telephone, cable television or other utility lines or poles. If removal of a decorative landscape feature for any of such purposes shall be necessary, as determined by the City Manager, or the designee of the City Manager, with respect to street widening, sidewalks, water or sanitary sewer mains or lines or storm sewers, or by a private utility having a right to construct, maintain, replace or operate a line or pole within the area, the decorative landscape feature shall be removed by the owner of the abutting property at the owner's expense and, if replaced, shall be replaced at such owner's expense. If the feature shall not be replaced, the surface of the ground shall be restored by such owner at his or her expense. (Ord. 2681, 1981)

#### **20-4-7. Violations; penalty.**

A violation of any provision of this Article is a Class II violation. Each day that a violation continues

to exist after notification of such violation by the City Manager or the designee of the City Manager shall constitute a separate offense.

## ARTICLE 5

### CONSTRUCTION IN OR NEAR STREET

#### Section

<a href="#"><u>20-5-1</u></a>	<a href="#"><u>Excavations; permit; required.</u></a>
<a href="#"><u>20-5-2</u></a>	<a href="#"><u>Application; contents.</u></a>
<a href="#"><u>20-5-3</u></a>	<a href="#"><u>Same; investigation; bond.</u></a>
<a href="#"><u>20-5-4</u></a>	<a href="#"><u>Permit; exhibiting.</u></a>
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<a href="#"><u>20-5-6</u></a>	<a href="#"><u>Frozen ground; freezing temperature; restrictions.</u></a>
<a href="#"><u>20-5-7</u></a>	<a href="#"><u>Barricades; lighting.</u></a>
<a href="#"><u>20-5-8</u></a>	<a href="#"><u>Obstruction of sidewalk; walkway around.</u></a>
<a href="#"><u>20-5-9</u></a>	<a href="#"><u>Leftover materials; removal; by holder of permit.</u></a>
<a href="#"><u>20-5-10</u></a>	<a href="#"><u>Backfilling; by holder of permit.</u></a>
<a href="#"><u>20-5-11</u></a>	<a href="#"><u>Removal of leftover materials; backfilling; by City; expense; charge; collection.</u></a>
<a href="#"><u>20-5-12</u></a>	<a href="#"><u>Excavations; prospective paving; notice to persons affected; restrictions.</u></a>
<a href="#"><u>20-5-13</u></a>	<a href="#"><u>Cutting into paving, curb, sidewalk; permit; required.</u></a>
<a href="#"><u>20-5-14</u></a>	<a href="#"><u>Same; application; investigation.</u></a>
<a href="#"><u>20-5-15</u></a>	<a href="#"><u>Same; deposit; required; conditions.</u></a>
<a href="#"><u>20-5-16</u></a>	<a href="#"><u>Same; bond; required; conditions.</u></a>
<a href="#"><u>20-5-17</u></a>	<a href="#"><u>Same; work; manner; by whom done.</u></a>
<a href="#"><u>20-5-18</u></a>	<a href="#"><u>Reserved.</u></a>
<a href="#"><u>20-5-19</u></a>	<a href="#"><u>Curb cuts; requirements; restrictions.</u></a>
<a href="#"><u>20-5-20</u></a>	<a href="#"><u>Driveways; aprons; over curbs; corners; permit; bond; specifications.</u></a>
<a href="#"><u>20-5-21</u></a>	<a href="#"><u>Same; when streets curbed, guttered, paved; owner; notice to; cost; assessment.</u></a>
<a href="#"><u>20-5-22</u></a>	<a href="#"><u>Buildings; other structures; prohibited; nuisance; exceptions.</u></a>
<a href="#"><u>20-5-23</u></a>	<a href="#"><u>Building materials; storage; permit; required; issued; when.</u></a>
<a href="#"><u>20-5-24</u></a>	<a href="#"><u>Hydrants; fountains; restrictions.</u></a>
<a href="#"><u>20-5-25</u></a>	<a href="#"><u>Repealed.</u></a>
<a href="#"><u>20-5-26</u></a>	<a href="#"><u>Repealed.</u></a>
<a href="#"><u>20-5-27</u></a>	<a href="#"><u>Repealed.</u></a>
<a href="#"><u>20-5-28</u></a>	<a href="#"><u>Traffic signs; exception.</u></a>
<a href="#"><u>20-5-29</u></a>	<a href="#"><u>Repealed.</u></a>
<a href="#"><u>20-5-30</u></a>	<a href="#"><u>Repealed.</u></a>
<a href="#"><u>20-5-31</u></a>	<a href="#"><u>Barbed wire fence; prohibited; removal.</u></a>
<a href="#"><u>20-5-32</u></a>	<a href="#"><u>Curb; buffer block; in alley; restrictions.</u></a>
<a href="#"><u>20-5-33</u></a>	<a href="#"><u>Unnecessary delay; prohibited; determination.</u></a>
<a href="#"><u>20-5-34</u></a>	<a href="#"><u>Violations; penalty.</u></a>

**20-5-1. Excavations; permit; required.**

It shall be unlawful for any person, firm or corporation to dig, or make any ditch, drain, or excavation in or upon any street, alley, sidewalk, parkway or public place or ground in the City without having made application and obtained a permit therefor. (Ord. 1116)

**20-5-2. Application; contents.**

Such application shall state the name of the person, firm or corporation desiring the permit and the name of the person doing the work; shall recite specifically, and illustrate by sketch or plan on the back thereof, the exact location, width, depth and length of the excavation desired to be made; and shall state for what purpose it is required, and the probable length of time required for its completion. (Ord. 1116)

**20-5-3. Same; investigation; bond.**

Upon the application of any person, firm or corporation for such a permit, the City Manager, or the designee of the City Manager, shall make an investigation of such application to ascertain the need of such excavation and that such excavation would not violate the provisions of this Article. If the application is in proper form, the investigation discloses that the excavation is necessary and would not violate any provision of this Article, and a bond, as provided in this section, is filed with the City Clerk, a permit shall be granted by the City Manager, or his or her designee; otherwise, a permit shall not be issued. The bond shall be signed by the applicant and two good and sufficient sureties or an approved surety company; shall be in the amount of one thousand dollars (\$1,000.00); and shall be conditioned that, in case of injury to any public utility installation, the bond shall be forfeit unless the applicant shall pay the expense of repairs within sixty (60) days after occurrence of the injury, and that the applicant will indemnify and hold harmless the City from any and all liability for injuries caused by or in connection with the excavation or excavation work. (Ord. 1116)

**20-5-4. Permit; exhibiting.**

The permit herein provided for shall be kept at the place of work until completion and must be exhibited to any officer of the City authorized to examine the same. (Ord. 1116)

**20-5-5. Public safety requirements; workers; knowledge.**

Persons doing the work shall be familiar with all public safety requirements. (Ord. 1116)

**20-5-6. Frozen ground; freezing temperature; restrictions.**

No person shall make any excavation in any street, alley, or public place within six (6) feet of any laid water pipe while the ground is frozen, or dig up or uncover so as to expose to the frost, any water pipe in the City. (Ord. 1116)

**20-5-7. Barricades; lighting.**

Every person, firm or corporation, whether engaged in public work or private, who shall dig or cause to be dug, any excavation whatsoever, including but not limiting preparation for hard surfacing streets, in or adjoining any highway, street, alley, sidewalk or other public place in the City, shall cause the same to be guarded with a substantial fence or railing barricade not less than three (3) feet high, with red warning flags attached thereto spaced so that there is a red flag at least every ten (10) feet on such barricade. Such barricade or barricades shall be so placed as to prevent persons, animals

or vehicles from falling therein and shall display the name of the person, firm, or corporation making such excavation. Barricades shall be painted in a conspicuous color that will reflect and stand out when lights are flashed thereon. In addition to such barricades, such excavations shall be surrounded by flares or lights burning continuously at all times during hours of darkness. Such flares or lights shall be securely and conspicuously posted on or near excavations or piles of material caused by such excavation to prevent danger to persons, animals or vehicles. (Ord. 1116)

**20-5-8. Obstruction of sidewalk; walkway around.**

Whenever in the construction, rebuilding or repairing of any building areaway, stairway or of any excavation in any street right-of-way, it becomes necessary to blockade, obstruct or remove the sidewalk, the person, firm or corporation in charge of such work shall build a substantial walkway to be approved by the City Manager, or the designee of the City Manager, around, across or under such obstruction. Such walkway shall be built ready for travel before any sidewalk is removed or obstructed. (Ord. 2581, 1980; Ord. 1116)

**20-5-9. Leftover materials; removal; by holder of permit.**

When any excavations are made in any public street, alley or place, paving and resurfacing materials shall be kept separate from other materials and deposited in such manner as will permit their reuse, and all excavated materials shall be so placed as to cause the least inconvenience to the public and shall be so placed as not to obstruct the streets, gutters and drainage at any time. Materials from the excavation that are not to be used in backfilling and repair shall be removed from the street, alley or place immediately. (Ord. 1116)

**20-5-10. Backfilling; by holder of permit.**

Every excavation in a street, alley or public place shall be backfilled promptly after completion of the work that required the excavation. No concrete rubble or trash shall be used in backfilling. The material used shall be thoroughly tamped and packed into place so that settling does not occur, and the holder of the permit shall maintain the surface over the refilled excavation in a smooth condition for a period of at least six (6) months after completion of the original backfilling. (Ord. 1116)

**20-5-11. Removal of leftover materials; backfilling; by City; expense; charge; collection.**

If materials from an excavation that are not to be used in backfilling and repair are not removed from the street, alley, or public place immediately; or if the excavation is left open or unfinished for a period of more than twenty-four (24) hours after completion of the work that required the excavation; or if the work shall have been improperly done; or should settling occur and the holder of the permit fail to place the street, alley or public places in a smooth condition at any time during the six (6) months' period after completion of the original backfilling, the City may do the work and charge the expense thereof to the person to whom the permit was issued. If the work was in connection with the laying or repair of water service pipes, and is done by the City prior to turning on the water, the expense shall be paid by the holder of the permit, or by the consumer, before the water is turned on. (Ord. 1116)

**20-5-12. Excavations; prospective paving; notice to persons affected; restrictions.**

Whenever a street or alley or a part thereof is to be put under contract for paving or repaving, the City Manager, or the designee of the City Manager, shall notify the owners of real estate abutting

such street or alley, and their tenants or lessees, and also all gas, water, electric service and telephone companies, by publication or otherwise, of the intention of the City to pave, and that all gas, water, sewer and underground connections must be made prior to the paving or repaving of such street or alley. Such notice shall be published one time in a legal newspaper at least twenty (20) days prior to the beginning of the operation by the party having the work under construction, and shall state at what date connection must be made and excavation completed. After expiration of such period, permits for excavation will not be issued, nor will excavation be allowed until after the completion of the pavement in such street or alley and the formal and final acceptance thereof by the proper officials of the City. (Ord. 1116)

**20-5-13. Cutting into paving, curb, sidewalk; permit; required.**

It shall be unlawful for any person, firm or corporation to cut into any paving, curb or sidewalk for any purpose whatsoever, without first having obtained a written permit from the City Manager therefor. (Ord. 1116)

**20-5-14. Same; application; investigation.**

Before any person, firm or corporation shall obtain such permit, such person, firm or corporation shall inform the City Manager of the place where such cutting is to be done, and it shall be the City Manager's duty to cause an inspection to be made of the proposed place of entry into such paving, curb or sidewalk. (Ord. 1116)

**20-5-15. Same; deposit; required; conditions.**

Before any permit is issued by the City Manager, the applicant for such permit shall deposit with the City Manager, or his or her designee, an amount sufficient as estimated by the City Manager, or his or her designee, to cover the cost of replacing such paving, curb or sidewalk. Such deposit shall be retained by the City for the purpose of replacing such paving, curb or sidewalk in case such work is done by the City. In case the City Manager, or his or her designee, elects to require the applicant to replace such paving, curb or sidewalk, said deposit shall be retained by the City until said work is completed to the satisfaction of said City Manager, or his or her designee.

**20-5-16. Same; bond; required; conditions.**

In addition to making such deposit, the applicant shall, before any permit is issued, execute a bond to the City, with good and sufficient surety or sureties to be approved by the City Clerk in the sum of not less than five hundred dollars (\$500.00) conditioned as follows: First, that the applicant, if requested by the City Manager, or the designee of the City Manager, will promptly replace and repair each and every place cut into any paving, curb or sidewalk, under such rules as may be prescribed by the City Manager, or his or her designee, in as good condition as before the same was cut, and will promptly compensate the City for all work done by the City in replacing or repairing any places cut into paving, curbing or sidewalks by such applicant. Second, that the applicant will obey all ordinances of the City in doing such work, and will save the City harmless from any damages which may occur as a result of either cutting or repairing pavement, curb or sidewalk. (Ord. 1116)

**20-5-17. Same; work; manner; by whom done.**

When cutting into any paving, it shall be the duty of the party so cutting to make the same in the manner, and under such rules and regulations as may be prescribed by the City Manager, or the

designee of the City Manager. When such party is ready to close such opening, such party shall inform the City Manager, who shall cause the materials used and the work done in closing such opening to be supervised and inspected. It shall be discretionary with the City Manager to do such work and charge the cost thereof to the holder of the permit, or he or she may consent to the work being done by the holder of the permit. (Ord. 1116)

**20-5-18. Reserved.**

**20-5-19. Curb cuts; requirements; restrictions.**

Curb cuts for the passage of vehicles shall be not less than five (5) inches in thickness. No curb cut shall be less than twenty (20) feet from the point of intersection of the curb line with the curb line of an intersecting street, nor closer than the point of curve of the curb radius. Not more than one (1) curb cut shall be provided for a private garage or driveway, or more than two (2) curb cuts for a public garage. The phrases “private garage” and “public garage” shall be construed, for the purposes of this section, to have the meaning that they have in Chapter 25.

**20-5-20. Driveways; aprons; over curbs; corners; permit; bond; specifications.**

It hereby unlawful for any person, firm or corporation to construct or cause to be constructed in the City any driveway or apron over the curb or corner of the streets and avenues of the City without specific permission from the City Manager, or his or her designee. Before any such permit shall be issued, the applicant shall furnish good and sufficient bond in the sum of one thousand dollars (\$1,000.00), to be approved by the City Clerk, to secure the City against any damages that may arise from or accident that may be incident to the construction of such driveway or apron. The City Manager shall have discretionary power to issue or refuse a permit for such driveway or apron structure, and may require, in lieu of such construction, the construction of an open driveway of such shape and nature as shall seem to the City Manager to be safe and proper. (Ord. 1116)

**20-5-21. Same; when streets curbed, guttered, paved; owner; notice to; cost; assessment.**

On all streets to be hereafter curbed, guttered and paved it shall be the duty of the City Manager, or the designee of the City Manager, to notify all parties desiring driveways into their premises to furnish him or her with information concerning the width and location of such driveway. The cost of all such driveways in excess of the cost of the continuous gutter and curb shall be charged against the lots or real estate so benefitted by their use when the levy for such work is made. (Ord. 1116)

**20-5-22. Buildings; other structures; prohibited; nuisance; exceptions.**

It shall be unlawful for any person, firm or corporation to construct, or cause to be constructed, any building, fence, areaway or other structure in, on, or under any public street, alley, sidewalk, place or ground, except as provided in this Chapter or in Chapters 4, 18 and 23. Every building or structure constructed in violation of this section shall constitute a nuisance. (Ord. 1116)

**20-5-23. Building materials; storage; permit; required; issued; when.**

No building materials shall be placed on any public street, alley or sidewalk without a permit from the City Manager. The City Manager may give a temporary permit for storage of building materials on a street, alley or sidewalk if adequate measures are taken for the unrestricted movement and safety of persons and traffic. (Ord. 2581, 1980; Ord. 1116)



**20-5-24. Hydrants; fountains; restrictions.**

No hydrants, except public fire hydrants, and no fountains, except public drinking fountains, shall be placed within the limits of any streets. (Ord. 1116)

**20-5-25. Repealed.**

**20-5-26. Repealed.**

**20-5-27. Repealed.**

**20-5-28. Traffic signs; exception.**

The provisions of this Article shall not be applicable to signs, signboxes or signposts erected or installed for the direction and control of traffic by order of officers of the City that have authority in that regard. (Ord. 1116)

**20-5-29. Repealed.**

**20-5-30. Repealed.**

**20-5-31. Barbed wire fence; prohibited; removal.**

No person, firm or corporation shall construct or maintain, or cause to be constructed or maintained, any barbed wire fence upon or along any public street or alley in the City, or upon or along any boundary line of any such street or alley, or in any manner next to any such street or alley, for any purpose whatsoever. No person, firm or corporation shall repair any such fence constructed before the taking effect of Ordinance 1116. In case such fence shall have been constructed before, and be in existence at, the time of the taking effect of Ordinance 1116, the owner thereof shall not be responsible therefor until notice to remove such fence has been given to him or her or it in writing. Such notice shall direct that such fence be removed within five (5) days after such notice has been served, and such fence shall be so removed. (Ord. 1116)

**20-5-32. Curb; buffer block; in alley; restrictions.**

A curb or buffer block may be constructed not more than nine (9) inches beyond the property line adjoining an alley. (Ord. 1116)

**20-5-33. Unnecessary delay; prohibited; determination.**

Work on public streets and alleys shall not be delayed unnecessarily, as determined by the City Manager, or the designee of the City Manager. (Ord. 2744)

**20-5-34. Violations; penalty.**

A violation of any provision of this Article is a Class II violation. The imposition of a penalty for violation of this Article shall not excuse a violation of this Article or permit it to continue. Any such violation shall be remedied within a reasonable time, and each day that such violation is permitted to exist shall constitute a separate offense. A prosecution shall not prevent the enforcement of any of the provisions of this Article by other appropriate action.

## ARTICLE 6

### OBSTRUCTION; USE

#### Section

#### (a) GENERAL PROVISIONS

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<a href="#">20-6-2</a>	<a href="#">Obstructions; police; observe; notice; complaint; duty.</a>
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<a href="#">20-6-5</a>	<a href="#">Wastewater; acids; chemicals; draining; standing; allowing; prohibited.</a>
<a href="#">20-6-6</a>	<a href="#">Repairing motor vehicles; prohibited; exception.</a>
<a href="#">20-6-7</a>	<a href="#">Ball; playing with; prohibited.</a>
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#### (b) SIDEWALKS

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<a href="#">20-6-23</a>	Repealed.
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#### (d) PLAY VEHICLES

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20-6-30 Penalties; surrender of play vehicle.

**(e) INJURIOUS VEHICLES**

20-6-31 Injurious vehicles; machinery, structures; operation; routes of travel; restrictions.

20-6-32 Reserved.

**(f) MOVING BUILDINGS**

20-6-33 Buildings; moving; restrictions.

20-6-34 Permit; required; application; bond.

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#### (a) GENERAL PROVISIONS

20-6-1. Use of Right-of-Way; permission required; Obstructing; prohibited; nuisance.

It shall be unlawful for any person, firm or corporation to use city right-of-way, or to place in or upon any right-of-way, street, alley, sidewalk or municipal parking lot of the city any substance or thing obstructing or encroaching upon such right-of-way, street, alley or sidewalk, or to obstruct the same in any manner whatsoever, without first obtaining permission to do so. An application for such permit, along with any fee required under this Code, shall be delivered to the Planning and Development Department. A Planning and Development Official will review the application as well as the rules and regulations governing the use of any right-of-way, street, alley, sidewalk or municipal parking lot and, if it appears to the Planning and Development Official that the proposed use complies with all rules and regulations, and that the public safety, convenience and welfare will not be adversely affected, the Planning and Development Official will issue a permit to the applicant. The permit shall be valid for one calendar year, beginning on January 1<sup>st</sup> of each year and expiring on December 31<sup>st</sup> of each year. Any permit issued by the Planning and Development Official shall be subject to the condition that the permit may be revoked at any time the Official finds that public safety, convenience and welfare would be enhanced by the revocation of such permit. If the Planning and development Official grants the application, the applicant shall be given a written permit signed by the Planning and Development Official. Such permit shall state in writing that it may be revoked at any time the Planning and Development Official finds that public safety, convenience and welfare will be enhanced by the revocation of the permit. If the Official has imposed conditions on the granting of the permit, such conditions shall be specified in the permit. Any use of the city right-of-way or any obstruction or encroachment upon any street, alley, sidewalk or municipal parking lot in the City without having obtained a permit as provided in this section or as otherwise provided in this Chapter shall be deemed a nuisance. (Ord.4129, 2014)

**20-6-2. Obstructions; police; observe; notice; complaint; duty.**

The police shall notice all obstructions to streets or sidewalks within their respective beats, and, shall forthwith notify the person, firm or corporation causing such obstruction to comply at once with the provisions of this Chapter relating thereto. If such person, firm, or corporation shall refuse or neglect to comply with such provisions for a period of twenty-four (24) hours after such notice is given, the Policeman report the matter to the City Attorney or one of his or her deputies. (Ord. 1116)

**20-6-3. Parking; riding; driving on; injuring; defacing; prohibited.**

When the area between the lot line and curb line has been improved and cultivated with grass, shrubbery or flowers, it shall be unlawful for any person to drive or ride any vehicle upon the same, or in any manner to injure or deface such lawn, shrubbery or flowers; and it shall be unlawful for any person in any manner to injure or deface any retaining wall thereon. (Ord. 1116)

**20-6-4. New pavement; barricaded; marked; driving on; prohibited.**

No person shall ride or drive any vehicle or animal over or across any pavement newly laid or repaired, across or around which there has been placed a barrier, or at or near which there is a person or sign warning persons against riding or driving over such pavement. (Ord. 1116)

**20-6-5. Wastewater; acids; chemicals; draining; standing; allowing; prohibited.**

It shall be unlawful for any person conducting or engaging in carrying on any hotel, cafe, eating house, boarding house, butcher shop, bakery, laundry, soft drink, drugstore, grocery store, or of any other business in the City to allow, suffer or permit any dish water, wash water, acid, battery water or other liquid chemical to escape and run upon any street or alley, or to stand or percolate on any street, alley, or sidewalk, or on any place adjacent to any street, alley or sidewalk in the City. (Ord. 1116)

**20-6-6. Repairing motor vehicles, prohibited; exception.**

No person shall adjust or repair any automobile or motorcycle on the public street, sidewalks or alleys of the City, except in case of breakdown or other emergency requiring such adjustment or repair. (Ord. 1116)

**20-6-7. Ball; playing with; prohibited.**

It shall be unlawful for any person to engage in throwing, tossing, or in any manner playing with or at ball upon any street or alley within the City. (Ord. 1116)

**20-6-8. Repealed.**

**20-6-9. Repealed.**

**20-6-10. Repealed.**

**20-6-11. Advertising vehicles; restrictions.**

It shall be unlawful for any person to cause or permit any advertising vehicle owned by him or her or under his or her control to be operated, placed or remain in any street or alley in the City. Provided, business notices may be placed upon ordinary business vehicles so long as such business vehicles are engaged in the usual business or regular work of the owner or person in control thereof, and are not used merely or primarily for advertisement. (Ord. 1116)

**20-6-12. Violations; classification.**

A violation of any provision of this Article is a Class II violation. Where the violation constitutes a nuisance, each day of default after notice in writing by the Police Chief to such person, firm or corporation to remove or abate such nuisance shall constitute a separate offense.

**(b) SIDEWALKS**

**20-6-13. Obstructions; sidewalks; parking; permitting; unlawful; nuisance; exceptions.**

It shall be unlawful for the occupant of any lot or the owner of any vacant lot within the City to permit the obstruction of the public sidewalk or parking contiguous to the lot, except as in this Chapter otherwise provided. Any such obstruction shall be deemed a nuisance. (Ord. 1116)

**20-6-14. Merchandise; restrictions.**

It shall be unlawful for any person, firm, or corporation to place or leave any goods, wares or merchandise upon any sidewalk in the City, except that a reasonable time shall be allowed within which to remove goods, wares and merchandise being received and shipped, and except as otherwise provided in this Article. (Ord. 1929, 1972; Ord. 1116)

**20-6-15. Other objects, materials.**

No person, firm or corporation shall place or maintain or, having placed or maintained, shall suffer to remain, on the right-of-way of any public street, or in any alley, any vehicle, machinery, equipment or structure, or any part thereof, or any material, except pursuant to a permit issued by a Planning and Development Official. Provided, this section shall not apply:

(1) to properly licensed motor vehicles operated or temporarily parked on the traveled part of the street adjacent to the curb or, if there be no curb, adjacent to the side of the street, or operated or temporarily parked in an alley, or to trailers while attached to such a motor vehicle, or

(2) to improvements permitted under Article 4 of this Chapter. (Ord. 2728, 1982; Ord.4129, 2014)

**20-6-16. Vehicles; driving; riding on or to; restrictions.**

It shall be unlawful for any person to drive or ride any automobile, motorcycle, or other vehicle upon or access any sidewalk or within any sidewalk space, except at a permanent or temporary driveway; provided, this section shall not apply to (1) vehicles (except automobiles and motorcycles) equipped with a snow-removal blade while being operated on a sidewalk for purposes of removal of snow from the sidewalk, or (2) to vehicles being operated by firefighters of the City or other governmental entities in the performance of their functions or duties. Any vehicle permitted to be operated on a sidewalk for the purpose specified in part (1) above shall, while traveling on a public street or alley to the sidewalk, travel only on that part of the street or alley dedicated to use by motor vehicles, and only by the most direct route. (Ord. 3101, 1988)

**20-6-17. Spitting on; prohibited.**

It shall be unlawful for any person to spit or expectorate on any sidewalk in the City. (Ord. 1116)

**20-6-18. Repealed.**

**20-6-19. Flower barrels, pots.**

Barrels and pots for the display of flowers or flowering plants may be set on sidewalks in the street right-of-way in a non-residential area during the plant-growing season. All barrels and pots placed pursuant to this section shall:

- (1) be constructed of durable material,
- (2) be securely attached if hung from a pole,
- (3) not be hung or placed so as to come in contact with cars parked in designated parking areas or interfere with pedestrians using sidewalks or persons getting in or out of parked vehicles.

All barrels and pots placed where sidewalks exist shall be placed in the portion of the sidewalk nearest to the street and shall be placed so at least 3 feet or two-thirds of the width of the sidewalk, whichever is greater, remains unobstructed. No portion of a barrel, pot or plant located within 20 feet of a street intersection or within 10 feet of an alley intersection shall be higher than 3 feet over that portion of the street nearest the barrel, pot or plant. This shall not prohibit trees within this restricted area where the branches and/or leaves are at least 6 feet above the portion of the street nearest the tree.

All barrels and pots shall be subject to approval by the City Manager, or the designee of the City Manager, as being in compliance with the requirements of this section and not creating a hazard to pedestrians and vehicles. (Ord. 3134, 1989)

**(c) SNOW, ICE AND MUD REMOVAL FROM SIDEWALKS**

**20-6-20. Snow, ice, mud; removal; nuisance.**

It shall be unlawful for the occupant of any lot or the owner of any vacant lot within the City to suffer or permit snow, sleet, ice, mud, slush or other substance to accumulate or remain on the sidewalks contiguous to the lot, or to permit any hardened trodden snow, sleet, ice, mud, slush or other substance to remain upon such sidewalk. Such sidewalk shall be cleaned and cleared from such substances by noon (12:00 p.m.) the day following the end of any snowfall. Any snow, sleet, ice, mud, slush or other substance which remains on a sidewalk contrary to the provisions of this section is declared to be a public nuisance. (Ord. 2713, 1982; Ord. 4172, 2015)

**20-6-21. Notice to remove.**

If snow, sleet, ice, or mud remains on any sidewalk in violation of this chapter, the City Manager or his designee may give notice to remove such snow, sleet, ice, or mud to the owner of the property contiguous to such sidewalk. Notice may be given either by personal service or by posting the notice on the property contiguous to the sidewalk. The notice shall contain:

1. An order to remove the snow, sleet, ice or mud within a stated time.
2. A statement that the party may request a hearing before the City Manager within three days after receiving the notice.
3. The address of the property contiguous to the sidewalk where the snow, sleet, ice, or mud exists.
4. A statement that if the snow, sleet, ice, or mud is not removed as directed, and no request for hearing is made within the prescribed time, the city may cause the removal of the snow, sleet, ice or mud and assess the cost thereof against such property contiguous to such sidewalk, collect such costs in a civil action, or exercise any other remedy available at law to recover such costs.

Within three days after receipt of such notice, if the owner or occupant of the land does not request a hearing with the City Manager or fails to comply with the order to remove the snow, sleet, ice or mud, the City Manager or his designee may cause the City to remove the snow, sleet, ice or mud. Within three days after receipt of such notice the owner or occupant may make a written request for a hearing before the City Manager. Such a request shall suspend the notice to remove unless an emergency was declared as provided in this Chapter. At such hearing the City Manager may cause the city to remove the snow, sleet, ice or mud within such time as the City Manager shall determine. If the snow, sleet, ice or mud is not removed within the time specified by the City Manager, the City Manager or his designee may cause the City to remove the snow, sleet, ice or mud. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the City may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so contiguous to such sidewalk in the same manner as other special taxes for improvements are levied and assessed or (b) recover in a civil action the costs and expenses of removing the snow, sleet, ice or mud. The remedies provided in this section shall be cumulative with any other remedy provided in this Municipal Code, or otherwise available at law or in equity. (Ord. 3959, 2008)

**20-6-22. Emergency.**

If the City Manager or his designee shall determine that an accumulation of snow, sleet, ice or mud is so unsafe, or is unsafe in a respect such that a delay in removal thereof would result in undue danger or other hazard to persons or property, he or she may declare in writing that there exists an emergency requiring that the snow, sleet, ice or mud be removed immediately and order the appropriate city employees to remove the snow, sleet, ice or mud. The costs and expenses of such removal may be assessed as provided in this Chapter. The remedy provided in this section shall be cumulative with any other remedy provided in this Municipal Code, or otherwise available at law or in equity. (Ord. 3959, 2008; 3987, 2009)

**20-6-23. Repealed.**

**20-6-24. Removal from adjacent property onto street; restrictions.**

It shall be unlawful for any person, firm, business or corporation to deposit or to permit the deposit of snow, sleet, ice or mud which has accumulated on non-City owned property onto a City street or alley. Provided, this restriction shall not apply to the deposit on City streets or alleys of snow, sleet, ice or mud which accumulated by Act of God on (1) curb sidewalks as provided for in Article 3 of Chapter 20 of the Municipal code, or (2) a property which is used exclusively as a one or two-family dwelling as defined in Article 22 of Chapter 25 of the Municipal code. (Ord. 3254, 1992)

**20-6-25. Obstruction of View, Motor Vehicles.**

Snow shall not be moved or piled on any location, upon private property, which obstructs the view of drivers of motor vehicles at intersections within the corporate limits of the city. Property owners or residents who have caused snow to be piled in such a manner as to obstruct the view of motor vehicle drivers at intersections as described above shall be contacted to remove the snow and should they fail to comply within twenty-four (24) hours from the date of said request being made, the snow shall be removed by the city, at the property owner's expense.



## **(d) PLAY VEHICLES**

### **20-6-26. Play vehicles; defined.**

The term “play vehicle” shall include wagons, sleds, ice skates, scooters which are not motorized, tricycles, bicycles with both wheels smaller than those as defined in Chapter 3, Article 1 of this Code, toy cars or other toy vehicles. The term shall not include skates, motorized skateboards or electric personal assistive mobility devices as defined in Chapter 3 of this Municipal Code, nor shall it include wheelchairs or similar devices required for the mobility of a disabled person. (Ord. 3202, 1991; Ord. 4181, 2016)

### **20-6-27. On streets; prohibited.**

Play vehicles shall not be operated on the streets of the City except for the purpose of crossing a street within a crosswalk or designated street crossing area. The rules relating to pedestrians crossing streets shall apply to persons crossing on a play vehicle. (Ord. 3202, 1991)

### **20-6-28. On sidewalks; right-of-way; presumption of negligence.**

Any person operating a play vehicle upon a public sidewalk shall yield the right-of-way to any pedestrians and, when involved in a collision with a pedestrian, shall be rebuttably presumed to have been negligent. (Ord. 3202, 1991)

### **20-6-29. Operation on certain sidewalks; prohibited.**

No person shall operate a play vehicle on a public sidewalk or city owned or operated parking lot situated in whole or in part within the area bounded by Railway Street on the south, 20th Street on the north, 2nd Avenue on the east and Avenue B on the west. Provided, this shall not prevent the pushing or pulling of a play vehicle or stroller within this area as long as the play vehicle or stroller is in the direct control of a person who is walking. (Ord. 3202, 1991)

### **20-6-30. Penalties; surrender of play vehicle.**

Any person violating any of the provisions of sections 20-6-27 and 20-6-29, in addition to any other penalty that may be imposed by this municipal code, may be ordered to surrender his or her play vehicle to the Police Chief for impounding for a period of not to exceed six (6) months. Provided, in the case of an apparent violation of any provision of the Article by a person under twelve (12) years of age who has neither been convicted nor received a warning of a violation of any provision of this Chapter during the preceding twelve (12) months, a written warning shall be issued and a copy shall be mailed to the parents or guardians of the apparent violator at their last known address. (Ord. 3202, 1991)

## **(e) INJURIOUS VEHICLES**

### **20-6-31. Injurious vehicles; machinery, structures; operation; routes of travel; restrictions.**

It shall be unlawful for any person, firm or corporation to move or operate any steam engine, gas or kerosene tractor, or road roller across any curb; gutter, bridge, culvert, sidewalk, crosswalk or crossing in any unpaved street within the City without first having protected such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing with heavy plank sufficient in strength to warrant against breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. It shall be unlawful to run, drive, move, operate or convey over or across or upon any paved street in the City any truck, wagon, vehicle, machine or implement with sharp discs or sharp wheels that

bear upon such pavement, or with wheels having cutting edges or with wheels having lugs or any protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mar, indent or otherwise injure or damage the curb, gutter or pavement, or any vehicle, tractor, machine or implement of such weight or proportions or carrying any load that will cut, mar, indent or otherwise injure or damage any pavement, gutter or curb within the City. Where heavy vehicles, structures or machines move along paved or unpaved streets of the City, the Police Chief is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted or allowed. (Ord. 1116)

**20-6-32. Reserved.**

#### **(f) MOVING BUILDINGS**

**20-6-33. Buildings; moving; restrictions.**

It shall be unlawful for any person to move any building upon, along or across any street or alley within the City, except as provided in this Article. (Ord. 1116)

**20-6-34. Permit; required; application; bond.**

Any person, firm, or corporation desiring to move any building upon, along or across any street or alley within the City shall first procure from the City Clerk a permit to do so. The application for such permit shall be in writing, and shall state the location of the building to be moved, the proposed route of moving, and the period within which the moving is to occur. Before granting the permit, the City Clerk shall require a good and sufficient bond, in the form of cash or otherwise, in an amount to be fixed by the City Clerk and conditioned that the holder of the permit shall pay any and all damages that may be sustained to the paving, street crossing, or otherwise to the City or to individuals or corporations. No license or general permit shall be given to anyone to move buildings at will or generally within the City. (Ord. 1116)

**20-6-35. Public service poles, wires; removal.**

Whenever it shall be necessary for any licensed housemover in moving a building to interfere with any telephone, telegraph or electric power poles or wires, the company or companies owning, using or operating such poles or wires, shall, upon such notice as is provided in their respective franchises, or, if no provision for notice is made therein, then upon twenty-four (24) hours' notice, be present and assist, or, if necessary, move such poles and wires at their own expense, unless it is otherwise provided in their said franchise. The notice herein provided for shall be given to such company or companies by the City Manager or the designee of the City Manager. (Ord. 1116)

**20-6-36. Reserved.**

#### **(g) PARADES**

**20-6-37. Parades; definition.**

For the purposes of this Article, the word "parade" shall mean and include any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in the City. (Ord. 1756, 1969; Ord. 1116)

**20-6-38. Permit; required.**

No person shall form, start, engage in, participate in or aid any parade, unless a parade permit shall have been obtained from the Police Chief as provided in this Article. Provided, this section shall not apply to:

- (1) funeral processions,
- (2) students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities, and
- (3) a governmental agency acting within the scope of its functions. (Ord. 1756, 1969; Ord. 1116)

**20-6-39. Permit; application; time.**

A person seeking issuance of a parade permit shall file an application with the Police Chief on forms provided by such officer. The application shall be filed not less than three (3) days nor more than thirty (30) days before the date on which it is proposed to conduct the parade; provided, the Police Chief, where good cause is shown therefor, shall have the authority to consider an application which has been tiled less than three (3) days before the date such parade is proposed to be conducted. The words “three (3) days” and “two (2) days” shall not include Saturdays, Sundays and holidays. (Ord. 1756, 1969; Ord. 1116)

**20-6-40. Permit; application; contents.**

The application for a parade permit shall set forth on a form to be furnished by the Police Chief:

- (1) the name, address and telephone number of the person seeking to conduct such parade,
- (2) if the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization,
- (3) the name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct,
- (4) the date when the parade is to be conducted,
- (5) the route to be traveled, the starting point and the termination point,
- (6) the approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles,
- (7) the hours when such parade will start and terminate,
- (8) a statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed,
- (9) the location by streets of any assembly areas for such parade,
- (10) the time at which units of the parade will begin to assemble at any such assembly area or areas,
- (11) the interval of space to be maintained between units of such parade, and
- (12) any additional information which the Police Chief shall find reasonably necessary to a fair determination as to whether a permit should issue.

If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Police Chief a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on

his or her behalf. (Ord. 1756, 1969; Ord. 1116)

**20-6-41. Permit; standards for issuance.**

The Police Chief shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

- (1) the conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route,
- (2) the conduct of the parade will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the City,
- (3) the conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the City other than that to be occupied by the proposed line of march and areas contiguous thereto,
- (4) the concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas,
- (5) the conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire,
- (6) the conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance,
- (7) the parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route, and
- (8) the parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

Provided, further, parades normally shall be permitted only upon the following route: on Broadway Avenue from West 24th Street to East 15th Street, on East 15th Street to 1st Avenue, and on 1st Avenue from East 15th Street to East 23rd Street, unless the Police Chief for good cause shall permit a parade to proceed in the opposite direction over such route, or to proceed over a different route. (Ord. 1756, 1969; Ord. 1116)

**20-6-42. Permit; decision on application.**

The Police Chief shall act upon the application for a parade permit within two (2) days after the filing thereof. (Ord. 1756, 1969; Ord. 1116)

**20-6-43. Permit; denial.**

If the Police Chief denies the application, he or she shall mail or deliver to the applicant, on the date of the denial, a notice in writing of the denial, stating the reasons therefor. (Ord. 1756, 1969; Ord. 1116)

**20-6-44. Permit; contents.**

Each parade permit shall state the following information:

- (1) starting time;
- (2) minimum speed,
- (3) maximum speed,
- (4) maximum interval of space to be maintained between the units of the parade,

- (5) the portions of the streets to be traversed that may be occupied by the parade,
- (6) the maximum length of the parade in miles or fractions thereof, and
- (7) such other information as the Police Chief shall find necessary to the enforcement of this Article. (Ord. 1756, 1969; Ord. 1116)

**20-6-45. Alternate permit.**

The Police Chief, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within twenty-four (24) hours after notice of the action of the Police Chief, file a written notice of acceptance with the Police Chief. An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under, this Article. (Ord. 1756, 1969; Ord. 1116)

**20-6-46. Permit; notice.**

Immediately upon the issuance of a parade permit, the Police Chief shall send a copy to the City Manager, Fire Chief and Street Superintendent. (Ord. 2434, 1978; Ord. 1116)

**20-6-47. Permittee; parade chairman; duties.**

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws, including applicable provisions of this municipal code. The parade chairman or other person heading or leading such activity shall carry the parade permit upon his or her person during the conduct of the parade. (Ord. 1756, 1969; Ord. 1116)

**20-6-48. Permit; revocation.**

The Police Chief shall have authority to revoke a parade permit if he or she finds that the standards for issuance set forth in this Article will not, or probably will not, be met notwithstanding the exercise of reasonable diligence on the part of the Police Department. The Police Chief, on the date of revocation of a permit, shall mail or deliver to the permittee a notice in writing of the revocation, stating the reason therefor. (Ord. 1756, 1969; Ord. 1116)

**20-6-49. Permit; appeal.**

Any person aggrieved shall have the right to appeal the denial or revocation of a parade permit to the City Council. The appeal shall be taken by filing a notice thereof with the City Clerk within ten (10) days after the mailing or delivery of the notice of denial or revocation. The City Council shall act upon the appeal within ten (10) days after its receipt. (Ord. 1756, 1969; Ord. 1116)

**20-6-50. Public interference.**

No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade. No operator of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade. The Police Chief shall have the authority, when reasonably necessary, to prohibit or restrict the operation or parking of vehicles along a street or highway or part thereof constituting a part of the route of a parade. The Police Chief shall post signs to such effect, or cause police officers to direct traffic at such locations, and it shall be unlawful for any person to operate or to park or leave unattended any vehicle in violation of such

sign or directions given by such officers. (Ord. 1756, 1969; Ord. 1116)

## **(h) COMMUNITY, BUSINESS PROMOTION EVENTS**

### **20-6-51. Community, business promotion events.**

Public streets, sidewalks, and municipal parking lots in a business area of the City may be used temporarily for the purpose of conducting thereon an organized community or business event of a type referred to in this Article, which is under the general supervision of an organization having its principal office within the City and holding a permit therefor issued by the City Clerk pursuant to specific authorization of the City Council, in accordance with the provisions of this Article. (Ord. 3437, 1995)

### **20-6-52. Allowable types.**

The types of community or business events which may be authorized by the City Council to be conducted on a public street or sidewalk in a business area of the City are:

- (1) sidewalk bazaar, which means the display and sale at retail of merchandise on public sidewalks abutting premises on or in which the merchandise is sold or offered for sale by the person or firm by which the merchandise is displayed and sold on such sidewalks, as an incident to an organized community event conducted as provided in this Article,
- (2) carnivals, including rides and other types of amusement park equipment and activities, which may be placed or conducted on that part of a public street improved for travel or parking of motor vehicles,
- (3) community festival, which may include a sidewalk bazaar, carnival, and art show,
- (4) art show, which may include the sale of works exhibited.
- (5) business promotion events, which may include the demonstration of a product or products to be offered for sale. (Ord. 3437, 1995)

### **20-6-53. Restrictions; general.**

It shall be unlawful to conduct, or to participate in the conduct of, a sidewalk bazaar or a carnival, community festival or art show on a public street otherwise than in accordance with the terms of this Article. (Ord. 2664, 1981)

### **20-6-54. Restrictions; particular.**

No sidewalk bazaar or carnival, community festival or art show shall be conducted for a period in excess of five (5) calendar days, and unless, as determined by the City Council as provided in this Article:

- (1) such activities will not substantially interrupt the safe and orderly movement of pedestrian traffic on any sidewalk, or across any street,
- (2) the activities will not require the diversion of so great a number of police officers of the City to properly police them and the areas contiguous thereto as to prevent normal police protection to the City,
- (3) the concentration of persons, equipment, vehicles and merchandise will not unduly interfere with proper fire and police protection of, or ambulance service to, the area, contiguous areas, or other areas of the City, and
- (4) the activities are not reasonably likely to cause injury to persons or property, or to pro-

voke disorderly conduct or create a disturbance.

In addition, no public sidewalk, or any part thereof, shall be obstructed in preparation for such activities prior to the calendar day on which the activities are to commence, and no street bazaar, community festival or art show shall be conducted within parts of a public sidewalk which the City Manager, for the purpose of securing orderly movement of pedestrian traffic and the public safety and convenience, shall order to remain unobstructed. (Ord. 2664, 1981)

**20-6-55. Permit; required.**

No sidewalk bazaar or carnival, community festival or art show on a public street shall be conducted, nor shall any person, firm, association or organization engage in the conduct of any such activities, unless a permit therefor shall have been obtained as provided in this Article. (Ord. 2664, 1981)

**20-6-56. Permit; application; time.**

A sponsoring organization seeking a permit for one or more of the activities described in section 20-6-52 shall file an application with the City Clerk on forms provided by the City Clerk. The application shall be filed not less than 14 days nor more than 1 year before the date that the organization proposes to commence the activities, unless the City Council determines, for good cause shown, to consider an application filed outside of this time period. An application may include a request for a permit for the conduct of more than one community or business event. All permits shall be subject to approval by the City Council. The applicant shall pay the fee described in Article 6, Chapter 6 of the Municipal Code. (Ord. 3520, 1997)

**20-6-57. Permit; application; contents.**

The application for a permit for one or more of the activities described in section 20-6-52 shall include:

- (1) the name, address and telephone number of the sponsoring organization, and if one or more of the activities will be conducted in conjunction with another organization, the name, address and telephone number of the other organization(s),
- (2) the name, address and telephone number of the person who will be the chairman responsible for the conduct of the activities,
- (3) the date(s) when the activities are to be conducted,
- (4) the location(s) where the activities will be conducted,
- (5) a general description of the type(s) of activities which will be conducted on all dates applied for, and
- (6) any additional information as the City Council shall find reasonably necessary to a fair determination as to whether a permit should issue. (Ord. 3134, 1989)

**20-6-58. Permit; insurance; bond.**

No permit to conduct:

- (1) a sidewalk bazaar, community festival or business promotion event on a public street, public sidewalk, or public parking lot shall issue until the applicant shall furnish to the City Clerk written evidence that a public liability insurance policy in amounts of not less than two hundred thousand dollars (\$200,000.00) for one person, five hundred thousand dollars (\$500,000.00) for any one accident, and fifty thousand dollars (\$50,000.00) for injuries to property, and including as a beneficiary the City, shall be in force during, and for twenty-four (24) hours before and after, the

bazaar or festival,

(2) a carnival on a public street shall issue until the applicant shall furnish to the City Clerk written evidence that a public liability insurance policy in amounts of not less than eight hundred thousand dollars (\$800,000.00) for one person, two million dollars (\$2,000,000.00) for any one accident, and two hundred thousand dollars (\$200,000.00) for injuries to property; including as a beneficiary the City; and containing such other provisions as the City Council may prescribe, shall be in force during, and for twenty-four (24) hours before and after, the carnival.

In addition, no permit to conduct a sidewalk bazaar, community festival, or business promotion event or a carnival on a public street, sidewalk, or parking lot shall issue until the applicant shall deposit with the City Clerk a surety bond to the City, to be approved by the City Clerk, in the sum of two thousand five hundred dollars (\$2,500.00), or in lieu thereof cash in that amount, conditioned that no damage will be done to streets or to sewer, water, electrical or other equipment or property of the City, and that no dirt, paper, litter or other debris will be permitted to remain upon the sidewalk, streets or alleys or any adjacent private property. (Ord. 3437, 1995)

**20-6-59. Permit; contents.**

Each permit shall state the following:

(1) the allowable date(s) and place(s) of the activity described in Section 20-6-52, including, but not limited to, the public places that will be obstructed and the parts which will remain unobstructed, and

(2) such other information as the City Manager shall determine to be necessary or desirable in order to effect compliance with this Article. (Ord. 3437, 1995)

**20-6-60. Alternate permit.**

The City Council, upon denying an application for a permit for one or more of the activities described in section 20-6-52, may authorize the conduct of the activity on a date, at a time or place, or on other conditions different from those specified in the application. An alternate permit for the activity permit shall conform to the requirements for, and shall have the effect of, a permit issued under preceding sections of this Article. (Ord. 2664, 1981)

**20-6-61. Permit; notice.**

Immediately upon the issuance of a permit for an activity described in section 20-6-52, the City Clerk shall so inform the Police Chief and the Fire Chief. (Ord. 2664, 1981)

**20-6-62. Permittee; compliance.**

An organization to which a permit has been issued for an activity referred to in section 20-6-52, and all employees, agents and representatives thereof, shall comply with all permit directions and conditions and with all applicable laws and applicable provisions of the municipal code. (Ord. 2664, 1981)

**20-6-63. Permit; revocation.**

The City Council may revoke a permit for an activity referred to in section 20-6-52 if it finds that the standards for issuance set forth in this Article will not, or probably will not, be substantially met, or that the permittee has wilfully or negligently failed to comply with the requirements of this Article in any substantial respect. The City Clerk, within twenty-four (24) hours after revocation of a permit,



shall deliver or mail to the permittee a notice in writing of the revocation, stating the reason therefor. (Ord. 2664, 1981)

**20-6-64. Public interference; prohibited.**

It shall be unlawful for any person unreasonably to hamper, obstruct or impede, or interfere with any authorized sidewalk bazaar or carnival, community festival or art show on a public street, or with equipment, materials or merchandise used or present in connection with the authorized activity, or with any person conducting or participating in the activity in a lawful manner. (Ord. 2664, 1981)

**20-6-65 to 20-6-69. Reserved.**

**20-6-70. Sale of merchandise on public sidewalks.**

Public sidewalks in a business area of the city may be used temporarily for the display and sale of merchandise. Such display and sale may occur only on the portion of the public sidewalk abutting the premises on or in which the merchandise is ordinarily displayed and sold. No person shall engage in this activity unless a permit therefor shall have been obtained as provided in this Article. (Ord. 3520, 1997)

**20-6-71. Permit; application; time; fee.**

Any person seeking a permit to sell for the sale of merchandise on the public sidewalk shall file an application with the Planning and Building Official on forms provided by the Official. The application shall be filed not less than three (3) days before the date that the applicant proposes to commence the sale. The applicant shall pay the fee described in Article 6, Chapter 6 of the Municipal Code. (Ord. 3520, 1997)

**20-6-72. Permit; application; contents.**

The application for a permit for the sale of merchandise on the public sidewalk shall include:

- (1) the name, address and telephone number of the applicant,
- (2) the name, address and telephone number of the person who will be responsible for the conduct of the sale,
- (3) the date(s) when the sale is to be conducted,
- (4) the location(s) where the sale will be conducted,
- (5) any additional information as the Planning and Building Official shall find reasonably necessary to a fair determination as to whether a permit should issue. (Ord. 3520, 1997)

**20-6-73. Restrictions.**

- (1) No permit for the sale of merchandise on the public sidewalk shall be granted unless the Planning and Building Official determines:
  - (a) such sale will not substantially interrupt the safe and orderly movement of pedestrian traffic on any sidewalk, or across any street,
  - (b) the sale will not require the diversion of so great a number of police officers of the City to properly police it and the areas contiguous thereto as to prevent normal police protection to the City,
  - (c) the concentration of persons, equipment, vehicles and merchandise will not unduly interfere with proper fire and police protection of, or ambulance service to, the area,

- contiguous areas, or other areas of the City, and
- (d) the sale is not reasonably likely to cause injury to persons or property, or to provoke disorderly conduct or create a disturbance.
- (2) No public sidewalk, or any part thereof, shall be obstructed in preparation for such activities prior to the calendar day on which the activities are to commence, and no sale shall be conducted on the parts of a public sidewalk which the Planning and Building Official, for the purpose of securing orderly movement of pedestrian traffic and the public safety and convenience, shall order to remain unobstructed.
- (3) No permit shall be issued for allowing the sale of merchandise on the public sidewalk for more than seven consecutive days. No applicant will be issued one or more permits authorizing the sale of merchandise on the public sidewalk for more than fourteen consecutive days. (Ord. 3520, 1997)

**20-6-74. Permit; insurance.**

No permit to conduct the sale of merchandise on the public sidewalk shall issue until the applicant shall furnish to the Planning and Building Official written evidence that a public liability insurance policy in amounts of not less than \$200,000.00 for one person, \$500,000.00 for any one accident, and \$50,000.00 for injuries to property, and including as an additional insured, the City, shall be in force during, and for twenty-four hours before and after, the period during which the merchandise is to be sold. (Ord. 3520, 1997)

**20-6-75. Permit; contents.**

Each permit shall state the following:

- (1) The allowable dates, places that merchandise may be sold on the public sidewalk including, but not limited to, the portions of the sidewalk that will be obstructed and the portions that will remain unobstructed and
- (2) any other information that the Planning and Building Official shall determine to be necessary or desirable in order to effect compliance with this article. (Ord. 3520, 1997)

**20-6-76. Permit; notice.**

Immediately upon the issuance of a permit for the sale of merchandise on the public sidewalk, the Planning and Building Official shall so inform the police chief and the fire chief. (Ord. 3520, 1997)

**20-6-77. Permittee; compliance.**

Any applicant to which a permit has been issued for the sale of merchandise on the public sidewalk, and all employees, agents and representatives of such applicant, shall comply with all permit directions and conditions and with all applicable laws and applicable provisions of the Municipal Code. (Ord. 3520, 1997)

**20-6-78. Permit; revocation.**

The Planning and Building Official may revoke a permit for the sale of merchandise on the public sidewalk if he or she finds standards for issuance set forth in this Article will not, or probably will not, be substantially met, or that the permittee has willfully and negligently failed to comply with requirements of this article in any substantial respect. The Planning and Building Official, within twenty-four hours after the revocation of the permit, shall deliver or mail to the permittee notice in writing of the revocation stating the reasons therefor. (Ord. 3520, 1997)

## **“(I) NEIGHBORHOOD BLOCK PARTY.**

### **20-6-79 Neighborhood block party; definition.**

For the purpose of this Article, the words “neighborhood block party” shall mean and include any event open to a specific, defined neighborhood or area where no admission fee is charged for attendance; where alcoholic beverages are not sold; where a city street is not closed more than six (6) hours; where the use of kybos/portapotties is not necessary; and where no other use of right of way permit is needed.

Any organization, private or public, or individual desiring to exclusively use a street or part thereof for a neighborhood block party must complete a block party application and submit the same to the Scottsbluff City Police Department at least thirty (30) days prior to the event. The application must include a map of the specific area to be used and blocked off and shall, unless otherwise directed by the Police Department, be from cross section to cross section so that no traffic can turn onto the closed street.

### **20-6-80 Permit; application; contents.**

The application for a neighborhood block party shall set forth on a form to be furnished by the Police Chief or the Chief’s designee:

- (1) The name, address, telephone number, and email address of the person or persons seeking to conduct the neighborhood block party,
- (2) The date and time of the neighborhood block party, and
- (3) The location of the neighborhood block party and which street or streets are requested to be used.

### **20-6-81 Permit; standards for issuance.**

The Police Chief or the Chief’s designee shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as otherwise obtained, he or she finds that:

- (1) All the addresses within the block party perimeter/boundary and all addresses affected by the neighborhood block party have been informed about the block party and have signed an event notification sheet.
- (2) Street closure requires the approval of the Police Chief or the Chief’s designee. MUTCD approved signs, barricades, cones and the like shall be used for all street closures and must be obtained from the parks department of the City of Scottsbluff. If the parks department of the City of Scottsbluff is unable to supply the approved signs, barricades, cones and the like, because of other uses or because of other neighborhood block parties, then the Police Chief or the Chief’s designee shall deny the applied for permit for that date.
- (3) Neighborhood block parties shall only be approved on local residential streets. Arterials, collectors, emergency snow routes or other streets necessary for traffic safety cannot be blocked.
- (4) Emergency vehicle access must be maintained at all times. Participants in the neighborhood block party shall not park cars or place other obstructions, including fireworks, which prevent emergency vehicle access.
- (5) On street parking shall not block driveways, fire hydrants, or travel lanes at any time.

- (6) If legal fireworks are used in the neighborhood block party, they must comply with all ordinance and code requirements of the City of Scottsbluff.
- (7) No open fires shall be allowed. Fires may be used for cooking only and must be screened. Smoke must be minimalized so as not to be deemed a nuisance; if deemed a nuisance, the fire shall be extinguished.
- (8) Amplified music shall not be permitted unless a noise permit is obtained pursuant to the Scottsbluff Municipal Code. Applicants must contact the city clerk for a noise permit.
- (9) Tents and canopies shall not be allowed on public property, streets or right-of-way.
- (10) Alcoholic beverages may be consumed on private property only. Alcoholic beverages cannot be sold at the neighborhood block party.
- (11) Block parties shall end at 10:00 p.m. on weekdays and at 12:01 a.m. on the weekends and holidays.
- (12) Traffic barricades shall be removed and all party refuse, materials, and garbage shall be cleaned from the streets, sidewalks, and front yards within one hour of the end of the party. If the City of Scottsbluff is required to clean any neighborhood block party area, the applicant or applicants shall be charged a \$250 cleaning fee.
- (13) No activity shall be conducted that conflicts with Federal, State, County, and/or City ordinances or regulations.
- (14) Applicants agree that the City of Scottsbluff and its official representatives shall not be held responsible for any and all claims or losses, which may occur as a result of the neighborhood block party.
- (15) The City of Scottsbluff will evaluate the conformance to these standards, which may affect future applications for a neighborhood block party at any applied for location.
- (16) The issued neighborhood block party permit shall be available on-site upon demand from any City of Scottsbluff official, police officer or firefighter. Failure to do so shall terminate and revoke any permit for a neighborhood block party immediately.
- (17) The City of Scottsbluff has the right to revoke the permit for any neighborhood block party if it is determined that the neighborhood block party is detrimental to public morals or public welfare.

#### **20-6-82 Permit; decision and timing on application.**

The Police Chief or the Chief's designee shall act upon an application within five (5) working days after the filing thereof. Applications must be submitted to the police department a minimum of thirty (30) days in advance of the neighborhood block party. If the Police Chief or the Chief's designee disapproves the application, he or she shall mail one of the applicants within five (5) days after the date upon which the application was filed, a notice of the denial, stating the reason for the denial of the permit. Such notice shall be mailed to an applicant at his or her address given in the application.

#### **20-6-83 Alternate permit.**

The Police Chief or the Chief's designee, in denying an application for a neighborhood block party permit, may authorize the neighborhood block party on a date, at a time, or at a location different from that named by the applicant, and if the applicant desires to accept the proposed date, time and location, they shall notify the Police Department within two (2) days after the notice of the action of the Police Chief or the Chief's designee. The permit applied for shall conform to the other requirements of this Chapter. The alternate dates may arise depending upon the availability of MUTCD approved signs, barricades, cones used for street closures.

**20-6-84 Permit application authority.**

The Police Chief or the Chief's designee shall have authority, in his or her sole discretion, to consider any application for a permit to conduct a neighborhood block party which is filed less than thirty (30) days before the date such neighborhood block party is proposed to be conducted. Immediately upon granting the neighborhood block party permit, the Police Chief or the Chief's designee shall send a copy thereof to an applicant at the address listed in the application and shall also send a copy to the City of Scottsbluff Code Enforcement Officers and City of Scottsbluff Parks Department.

**20-6-85 Permit; revocation.**

The Police Chief or the Chief's designee shall have authority to revoke a neighborhood block party permit if he or she finds that the standards for issuance set forth in this Article will not, or probably will not, be met notwithstanding the exercise of reasonable diligence on the part of the police department. The Police Chief or the Chief's designee, on the date of revocation of a permit, shall mail or deliver the permittee a notice in writing of the revocation stating the reasons therefore.

**20-6-86 Permit; appeal.**

Any person aggrieved shall have the right to appeal the denial or revocation of a neighborhood block party permit to the City Council. The appeal shall be taken by filing a notice thereof with the City Clerk within ten (10) days after the mailing or delivery of the notice of denial or revocation. The City Council shall act upon the appeal within ten (10) days after its receipt.”

## ARTICLE 7

### TREES

#### (a) DEFINITIONS

##### Section

<a href="#"><u>20-7-1</u></a>	<a href="#"><u>Definitions; generally.</u></a>
<a href="#"><u>20-7-2</u></a>	<a href="#"><u>Department.</u></a>
<a href="#"><u>20-7-3</u></a>	<a href="#"><u>Shrubs.</u></a>
<a href="#"><u>20-7-4</u></a>	<a href="#"><u>Trees, large.</u></a>
<a href="#"><u>20-7-5</u></a>	<a href="#"><u>Trees, medium.</u></a>
<a href="#"><u>20-7-6</u></a>	<a href="#"><u>Trees, small.</u></a>
<a href="#"><u>20-7-7</u></a>	<a href="#"><u>Trees, street.</u></a>
<a href="#"><u>20-7-8</u></a>	<a href="#"><u>Trees; topping.</u></a>
<a href="#"><u>20-7-9</u></a>	<a href="#"><u>Trees; pruning, trimming.</u></a>
<a href="#"><u>20-7-10</u></a>	<a href="#"><u>Trees; drop crotch pruning.</u></a>
<a href="#"><u>20-7-11</u></a>	<a href="#"><u>Parking strip.</u></a>
<a href="#"><u>20-7-12</u></a>	<a href="#"><u>Curbsidewalk.</u></a>

#### (b) STREET TREES

<a href="#"><u>20-7-13</u></a>	<a href="#"><u>Species.</u></a>
<a href="#"><u>20-7-14</u></a>	<a href="#"><u>Spacing.</u></a>
<a href="#"><u>20-7-15</u></a>	<a href="#"><u>Street trees; list.</u></a>
<a href="#"><u>20-7-16</u></a>	<a href="#"><u>Shrubs; height.</u></a>
<a href="#"><u>20-7-17</u></a>	<a href="#"><u>Trees; distance from corner, hydrants, utility lines, building, driveways.</u></a>
<a href="#"><u>20-7-18</u></a>	<a href="#"><u>Planting, permit; required.</u></a>
<a href="#"><u>20-7-19</u></a>	<a href="#"><u>Pruning, topping.</u></a>
<a href="#"><u>20-7-20</u></a>	<a href="#"><u>Drop crotch pruning.</u></a>
<a href="#"><u>20-7-21</u></a>	<a href="#"><u>Topping.</u></a>
<a href="#"><u>20-7-22</u></a>	<a href="#"><u>Branches; obstruction of light, view; overhanging; pruning; unsafe, injurious trees; removal; nuisance.</u></a>
<a href="#"><u>20-7-23</u></a>	<a href="#"><u>Same; duty to prune, remove.</u></a>

#### (c) HAZARDOUS TREES

<a href="#"><u>20-7-24</u></a>	<a href="#"><u>Hazardous trees; statement of policy; discretion conferred.</u></a>
<a href="#"><u>20-7-25</u></a>	<a href="#"><u>Notice to abate and remove nuisance; City Manager or his or her designee.</u></a>
<a href="#"><u>20-7-26</u></a>	<a href="#"><u>Removal by City; assessment.</u></a>
<a href="#"><u>20-7-27</u></a>	<a href="#"><u>Violations; penalty.</u></a>

#### (d) MISCELLANEOUS PROVISIONS

<a href="#"><u>20-7-28</u></a>	<a href="#"><u>Article; scope.</u></a>
<a href="#"><u>20-7-29</u></a>	<a href="#"><u>Stumps; removal.</u></a>

<a href="#"><u>20-7-30</u></a>	<a href="#"><u>Removal; obstruction of street during; permit; bond.</u></a>
<a href="#"><u>20-7-31</u></a>	<a href="#"><u>Same; closure of street; permit; barricades; markers.</u></a>
<a href="#"><u>20-7-32</u></a>	<a href="#"><u>Arborists - Tree Service; license; application; fees; insurance.</u></a>
<a href="#"><u>20-7-33</u></a>	<a href="#"><u>Same; renewal.</u></a>
<a href="#"><u>20-7-34</u></a>	<a href="#"><u>Tree; cutting down, injuring.</u></a>
<a href="#"><u>20-7-35</u></a>	<a href="#"><u>Violations; penalties.</u></a>

## (a) DEFINITIONS

### **20-7-1. Definitions; generally.**

Any of the terms defined in any subsequent section has the meaning which is ascribed to the term in such section. (Ord. 3103, 1988)

### **20-7-2. Department.**

The term “Department” means the Department of Parks and Recreation. (Ord. 3103, 1988)

### **20-7-3. Shrubs.**

The term “shrubs” means bushes or other woody vegetation used in landscaping which by their nature do not normally attain heights in excess of twenty (20) feet. (Ord. 3103, 1988)

### **20-7-4. Trees, large.**

The term “large trees” means trees which by their nature normally attain heights in excess of forty-five (45) feet at maturity. (Ord. 3103, 1988)

### **20-7-5. Trees, medium.**

The term “medium trees” means trees which by their nature normally attain heights of from twenty-five (25) to forty-five (45) feet at maturity. (Ord. 3103, 1988)

### **20-7-6. Trees, small.**

The term “small tree” means trees which by their nature do not normally attain heights in excess of twenty-five (25) feet at maturity. (Ord. 3103, 1988)

### **20-7-7. Trees, street.**

The term “street trees” means, unless otherwise provided by ordinance, all trees and shrubs situated within the right of way of any public street of the City. A tree shall be deemed to be so situated if the trunk, or any part thereof, is situated within the right of way. A shrub shall be deemed to be so situated if any stem thereof, at the level of emergence from the ground, is situated within the right of way. Trees and shrubs which in the course of normal growth will become so situated shall be deemed to be so situated at the time of planting. (Ord. 3161, 1990)

### **20-7-8. Trees; topping.**

The term “topping” means reducing the overall height of a tree by improperly removing the crown or any portion thereof. (Ord. 3161, 1990)

### **20-7-9. Trees; pruning; trimming.**

The terms pruning and trimming mean the removal of living or dead parts of a plant, especially

branches, in a careful, scientific and systematic manner so as to not damage other parts of the plant. (Ord. 3163, 1990)

**20-7-10. Trees; drop crotch pruning.**

The term “drop crotch pruning” means the specific cutting back of a branch or leader to a lateral branch at least one-third to one-half the diameter of the cut being made. This pruning is designed to reduce the crown of a tree or individual branch. It is distinctly different from “topping” in that an effort is made to leave the tree as natural-looking as possible. It is sometimes referred to as crown reduction pruning or directional drop crotch pruning. (Ord. 3161, 1990)

**20-7-11. Parking strip.**

The term “parking strip” means that area of City right-of-way between the curb and the sidewalk where curb and sidewalk are separated by 2 feet or more of ground. (Ord. 3161, 1990)

**20-7-12. Curb-sidewalk.**

The term “curb-sidewalk” means that the sidewalk is installed right next to the curb with no ground space between curb and sidewalk. (Ord. 3161, 1990)

**(b) STREET TREES**

**20-7-13. Street trees; species.**

It shall be unlawful to any person to plant any species of tree or shrub other than those included on the official list of street trees in any location such that the tree or shrub, upon planting, shall constitute a street tree within the meaning of this Article. (Ord. 3103, 1988)

**20-7-14. Same; spacing.**

Trees constituting street trees may be planted no closer together than thirteen (13) feet for small trees, eighteen (18) feet for medium trees, and twenty-three (23) feet for large trees; provided, the Park, Cemetery, and Tree Board may approve proposals for alternative spacing as part of an application for a special exception that is proposed to be included in a formal landscape plan, if the Board shall determine that the proposed spacing will not be substantially inconsistent with the purpose of the City Tree Plan. (Ord. 3188, 1991)

**20-7-15. Same; street trees; list.**

The list of tree and shrub species for planting as street trees shall be determined in the same manner as park trees as set out in Chapter 15, Article 1. (Ord. 3161, 1990)

**20-7-16. Shrubs; height.**

Shrubs constituting street trees shall be trimmed to a height not greater than thirty (30) inches above the top of the curb (or, if there be no curb, the surface of the street or alley), unless the Park, Cemetery, and Tree Board determines that a greater height would not constitute a hazard to pedestrians or vehicular traffic. (Ord. 3103, 1988)

**20-7-17. Trees; distance from corner, hydrants, utility lines, building, driveways.**

Street trees shall be planted not less than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines, and not less than 8 feet from any hydrant. Small trees shall



be planted no less than 15 lateral feet from the nearest overhead utility wire and medium trees shall be planted no less than 25 lateral feet from the same, and large trees no less than 35 feet from the same. No street tree shall be allowed to grow in such a manner that it shall interfere with any private or public utility line either above or below ground. A public or private utility may prune or remove, if necessary, any street tree which obstructs its lines, wires or pipes, including house service lines, wires or pipes. (Ord. 3161, 1990)

**20-7-18. Street trees; planting; permit; required.**

No person, other than an employee of the City acting in the course of such person's employment, shall plant a street tree without first obtaining a written permit for such planting and a copy of the ordinance pertaining thereto from the City Manager, or the designee of the City Manager, within 48 hours prior to planting. The terms of the permit, if granted, shall be strictly followed. (Ord. 3161, 1990)

**20-7-19. Pruning, topping.**

All pruning of street and park trees shall be done according to National Arborist Association Class I-IV pruning standards. Any person failing to comply with these regulations will be subject to prosecution or a hearing conducted for the purpose of suspension or revocation of license authority, or both. (Ord. 3161, 1990)

**20-7-20. Drop crotch pruning.**

Drop crotch pruning is to be undertaken only for the following reasons:

- (a) In situations where branches interfere with utility lines.
- (b) When there has been significant crown die-back.
- (c) When it is necessary to achieve specific topiary training or dwarfing.
- (d) In cases where, due to storm damage or prior incorrect pruning, it is necessary to prune for safety or aesthetics.

All drop crotch pruning shall be done according to National Arborist Association Class IV Standards. Drop crotch pruning done for any other reason shall be cause for permanent revocation of that firm's and/or person's Arborist license. In cases where drop crotch pruning, according to National Arborist Association standards, is not possible or feasible, the entire tree must be removed. (Ord. 3161, 1990)

**20-7-21. Topping.**

It shall be unlawful for any person including a City or Utility employee to top any street or park tree. (Ord. 3161, 1990)

**20-7-22. Branches; obstruction of light, view; overhanging; pruning; unsafe, injurious trees; removal; nuisance.**

- (1) Branches of trees, whether the tree is a street tree or is on private property abutting the right of way of a public street or alley, shall be kept pruned in such manner as not to obstruct light from any street light on the street, or the view of any street intersection on the part of the operator of a vehicle approaching the intersection. Branches overhanging the sidewalk, a portion of the street used by vehicles, or an alley shall be kept pruned to a height not less than ten (10) feet above the surface of the sidewalk, and not less than twelve (12) feet above the surface of such portion of the street and of alleys. Branches existing in violation of this section are declared to be a nuisance.

(2) Any tree which, because of an unsafe condition, is hazardous to persons or property on a sidewalk or portion of a street used by vehicles; any tree which by its nature is injurious to utility, sewer, water or gas lines or other public improvements situated within the right of way of a street or alley; and any tree, whether a street or a tree situated on private property, which is affected by any injurious insect or disease is declared to be a nuisance and shall be removed.

(3) It is hereby declared to be a public nuisance for a property owner to permit, allow or maintain any dead or diseased tree or trees within the right of way of streets within the corporate limits of the City. (Ord. 3371, 1994)

**20-7-23. Duty to prune, remove.**

It shall be the duty of any person who owns, occupies or has the control or management of any lot or tract of land on which is situated, or which abuts a portion of the right of way of a public street or alley on which is situated, (1) a tree having branches referred to in section 20-7-22, to cause all such branches to be pruned as required in such section, or (2) any tree that is unsafe or injurious or affected by an insect or disease as provided in such section, to cause such tree to be removed. (Ord. 3103, 1988)

**(c) HAZARDOUS TREES**

**20-7-24. Hazardous trees; statement of policy; discretion conferred.**

The City Council finds that there are within the corporate limits of the City of Scottsbluff numerous trees which are dead or dying. The proximity of many of these trees to streets and other public rights-of-way creates a public safety problem. The City Council finds the number of trees involved and other demands on limited City resources create administrative problems in enforcing the provisions of this Article. The City Council therefore confers on the City Manager, or his or her designee, the following discretion:

(1) To identify trees within the corporate limits of the City of Scottsbluff that fall within one of the following categories:

- (a) street trees which constitute an immediate hazard to public safety;
- (b) street trees which constitute a hazard to public safety but whose removal can be safely deferred for a period of time;
- (c) trees which are situated on private property but, because of the proximity to public rights-of-way, constitute a hazard to public safety.

(2) To distinguish between trees in classifications (a), (b) and (c) above. In the enforcement of this Article, the City Manager, or his or her designee, may consider whether a given tree is within category (a), (b) or (c) above in determining what enforcement action should be undertaken with regard to such trees and when such action should be undertaken.

(3) To divide the corporate limits of the City into such enforcement zones as may be determined by the City Manager, or his or her designee, for the purpose of efficiently and economically exercising the enforcement powers conferred upon the City elsewhere in this Article.

The City Council states its intention that all decisions and actions or nonactions undertaken pursuant to this Article shall be considered discretionary functions within the meaning of the Political Subdivisions Tort Claims Act. (Ord. 3270 § 1, 1993.)

**20-7-25. Notice to abate and remove nuisance, City Manager or his or her designee.**

(1) If any branches shall not have been pruned or any tree not removed as provided in Section 20-7-23, the City Manager, or his or her designee, may, in the exercise of the discretion conferred

in this article, give written notice to abate and remove such nuisance within the time specified in the notice, which time shall not be less than thirty days after receipt of the notice.

(2) The notice referred to in this section shall be given by personal service or by certified mail. It shall be given to each owner of the property on which are situated the trees or branches in question, or property which abuts the sidewalk or other street or alley area on which are situated such branches or trees. In the alternative, such notice may be given to such owner's duly authorized agent. Such notice shall also be given to the occupant, if any. If the City Manager or his or her designee, after diligent investigation and inquiry, is unable to ascertain the name, residence or address of a person, or other entity who is entitled to the notice described in this section the City Manager or his or her designee shall cause to be published a notice addressed to "all persons having or claiming to have an interest in," followed by a legal description of the lot or tract. If publication of notice is required, the City Clerk shall also cause a copy of the notice to be posted on the tree or trees to which the notice relates.

(3) The notice referred to in this section shall inform the recipient that he or she may request a hearing before the City Council by delivering a written request for such hearing to the City Clerk not later than ten (10) days after receipt of the notice or after the publication described in this section.

(4) If a hearing is requested in the manner described in this section, the City Council shall proceed to hear the matter at the soonest convenient time. At such hearing the City Council may order the nuisance abated and removed within such time as the City Council shall determine.

(5) Within thirty (30) days after receipt of such notice or after the publication described in this section, if no hearing has been requested or there has been a failure to comply with the order to abate or remove such nuisance, or if there has been a hearing and the owner or occupant fails to remove or abate the nuisance within the time specified by the City Council, the City may have such work done and may levy and assess all or any portion of the costs and expenses of the work as provided in this Article. (Ord. 3371, 1994)

#### **20-7-26. Removal by City; assessment.**

A true and proper account of the costs and expenses of removing nuisances as described in this Article shall be kept by the City Manager, or his or her designee, and certified to the City Clerk. The City Clerk shall certify to the City Council the expense of such removal. The City Council shall ascertain the expense of such removal and shall thereupon assess the same as a special tax against the property on which was situated the trees so pruned or removed, or property which abutted the sidewalk or other street or alley area on which was situated such branches or trees. Such tax shall be levied and assessed to the extent of special benefit of the property assessed after notice and hearing and otherwise in the same manner as other special taxes for improvements are levied and assessed. (Ord. 3371, 1994)

#### **20-7-27. Violations; penalty.**

Any person who shall permit any nuisance to exist or continue in violation of sections 20-7-22 or 20-7-23 or of any notice served as provided in section 20-7-25, shall be guilty of a Class II violation. Each day during which a violation occurs shall constitute a separate and distinct offense. (Ord. 3103, 1988)

### **(d) MISCELLANEOUS PROVISIONS**

#### **20-7-28. Article; scope.**

This Article shall apply to all street trees as defined in this Article, and to other trees, as well, in

situations in which the context clearly so indicates. (Ord. 3103, 1988)

**20-7-29. Stumps; removal.**

All stumps of street trees shall be removed to a depth of at least seven (7) inches below the surface of the ground, and the hole refilled with top soil or wood chips so that the top of the stump shall not project above the surface of the ground. (Ord. 3161, 1990)

**20-7-30. Removal; obstruction of street during; permit; bond.**

No person shall obstruct a street, alley, or sidewalk while removing any tree without obtaining a permit from the City Manager, or the person designated by the City Manager. No permit may be issued until a bond is filed with the City Clerk, in an amount to be fixed by the City Manager, or the designee of the City Manager, signed by the person and an approved surety company and conditioned that the person will indemnify and keep harmless the City from any and all liability from accidents, injuries and damage suits caused by the removal of the tree. (Ord. 3161, 1990)

**20-7-31. Same; closure of street; permit; barricades; markers.**

If for public safety it shall be necessary to close any street, sidewalk or alley during the removal of any trees, a permit shall be issued by the City Manager, or the person designated by the City Manager, for such closure after an application therefor is endorsed by the Fire Chief and the Police Chief, or their authorized representative. The person in charge of such work shall furnish all barricades, red flags, and flares necessary for the closing of such street, sidewalk or alley, with a sign posted signifying such closure, and shall display the name of the person doing the work. (Ord. 3103, 1988)

**20-7-32. Arborists; Tree Service; license; application; fees; insurance.**

It shall be unlawful for any person for hire, to plant, prune, treat or remove any street or park tree within the City unless the person holds an Arborist's License issued by the City Clerk. No license shall be required of any utility company doing this work in the course of its business, except that a license shall be required of a person that contracts to do this work for a utility. All applications for an Arborist's License shall be made to the City Manager, on forms approved for that purpose. In order to be issued a license, an applicant must:

- (1) Pay an annual license fee in the amount provided in Chapter 6, Article 6.
- (2) Provide a Certificate of Insurance evidencing liability insurance covering acts performed in connection with such activities in the minimum amounts of five hundred thousand dollars (\$500,000) for bodily injury and three hundred thousand dollars (\$300,000) for property damage. All licenses shall expire one year from the date they are issued. (Ord. 3168, 1990)

**20-7-33. Same; renewal.**

Every person who is the holder of a license for the immediately preceding year may renew the license for an additional year upon:

- (1) Filing an application for renewal with the City Manager on forms provided for that purpose.
- (2) Providing evidence of continuing insurance coverage as required by section 20-7-32.
- (3) Payment of a ten-dollar (\$10.00) license fee. (Ord. 3168, 1990)

**20-7-34. Tree; cutting down, injuring.**

It shall be unlawful for any person to willfully, maliciously or wantonly cut down, destroy, or injure

by girdling, tapping, topping, improper pruning or otherwise, any street tree within the City, except in compliance with the requirements of this Article. Provided, that damage caused to a street tree as a result of the City's exercise of any of its rights to the street right-of-way shall not be considered a violation of this section. In addition, the City shall have no liability for damage to trees incurred as a result of the exercise of these rights. (Ord. 3168, 1990)

**20-7-35. Violations; penalties.**

A violation of any provision of this Article is a Class II violation. Each violation shall constitute a separate and distinct offense. (Ord. 3174, 1990)