

**STREETS, SIDEWALKS AND MISCELLANEOUS PUBLIC PLACES
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State law reference(s)--Powers of home rule charter cities, Mo. Const. art. VI, § 19(a); exclusive control over streets, highways, etc., RSMo 82.190; authority to provide for and regulate crosswalks, curbs and gutters, RSMo 71.365.

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ARTICLE I. IN GENERAL

Sec. 25-1. Permits located, where; inspections.

(a) A copy of any permit issued pursuant to this chapter shall be filed with the department of origin. If the permit relates to construction, an additional copy shall be kept at the construction worksite. If the permit relates to hauling, an additional copy shall be kept by the driver of the vehicle performing that function.

(b) Any representative designated by the city shall have the right to review and/or inspect any permit issued pursuant to this chapter.
(Code 1969, § 19-37; G.O. 1537, 7-28-97; G.O. 1950, 6-9-03)

Sec. 25-2. Filing fee for petition to vacate street or alley.

Whenever any person shall file a petition for the vacation of any dedicated street or alley right-of-way, the petition shall be accompanied by a receipt from the director of financial services showing payment of a nonrefundable filing fee as set out in Section 26-10.
(Code 1969, § 20-51(b); G.O. 1950, 6-9-03; G.O. 2119, 8-1-05)

Sec. 25-3. General prohibition against building, dumpster, fence or other obstruction in public way; special permits, fees.

No person shall erect, place or maintain any building, fence or obstruction, in whole or in part, upon any street, alley, parkway, boulevard, sidewalk or other public place within the city with the following exceptions:

- (1) A special permit may be issued by the director of public works and transportation for fencing on the city right-of-way between the abutting property line and the back of the public sidewalk line upon request by the property owner. The permit must be considered temporary, state the owner's liability and may be discontinued upon proper notice by the director issuing the permit.
- (2) A special permit may be issued by the director of public works and transportation to the owner of an

historical building, designated as such on the local or federal registers of historic places, who may be required to provide additional ingress or egress to meet fire and safety requirements of the building codes of the city when the application of the requirements of such codes will require public rights-of-way encroachment. The owner of such historic building or place may make application for a special permit to occupy the rights-of-way with the department of public works and transportation, building inspection division, accompanied by such minimum supporting data as follows:

- a. Such structure or place is registered with the local or federal register of historic places.
- b. The modification of such structure is a detrimental architectural change to the historic features of the structure and the federal or state grants or requirements will not allow such a change within the structure.
- c. Costs of modifications, structural member arrangements and materials will result in extreme hardship, loss of grants or revocation of historic status.
- d. The applicant will provide, with the application, proof of liability insurance in amounts as may be required by the department of law, and proof of such insurance and renewals thereof shall be filed with the department of public works and transportation.
- e. The applicant agrees that he will provide all maintenance necessary.
- f. No less than a five-foot sidewalk will remain.
- g. The applicant will remove the encroachment within three months of the city's request to remove when the permitted space is required for civic purposes or needs and will remove or relocate the encroachment at no cost to the city. In addition, the applicant shall restore the right-of-way to the original condition before encroachment, except where restoration is not deemed necessary by the department of public works and transportation.

h. Any further requirements deemed necessary by the director of public works and transportation to protect the health, safety and welfare of the citizens of the city on an individual case-by-case determination, under the circumstances involved.

(3) The director of public works and transportation shall promulgate rules as set forth under Section 25-90 et seq. concerning the permitted retail use of public sidewalks. Certain uses of the public sidewalk may be approved by permit so long as the conditions set forth in the promulgated rules and Section 25-401 are met. Fees for this permit shall be as follows:

- a. Vending carts, per year.....\$350.00
- b. Permanent café/retail, or over five sidewalk sales, per year.....\$100.00
- c. Sidewalk sales, per sale-- maximum of four per year.....\$ 10.00

If more than four sidewalk sales are held, a permit under Subsection (3)b is required.

(4) Violations of the provisions of this section shall carry a penalty of \$25.00 per day for each day after notification of violation of any of the conditions upon which this special permit is granted.

(Code 1969, § 19-16; G.O. 1950, 6-9-03; G.O. 2235, 5-7-07)

Cross reference(s)--Buildings, ch. 7.

Sec. 25-4. Permit for closing streets and sidewalks.

No person shall close any street or sidewalk, or portion thereof, without first obtaining a permit. Any person seeking such a permit shall file an application, on forms provided. A non-refundable fee of \$25.00 shall be remitted with the application at the time of filing. The director of public works and transportation shall issue all street or sidewalk closing permits related to construction and shall ensure that the fire chief and police chief are promptly notified of the same. The director of public works and transportation shall use his or her discretion in issuing said permits. The director of public works and

transportation shall also issue all street or sidewalk closing permits related to special events. Such permits shall be governed by the provisions of Sections 25-371 through 25-384 herein. (Code 1969, § 19-1(a); G.O. 1537, 7-28-97; G.O. 1756, 3-20-00; G.O. 1950, 6-9-03)

Sec. 25-5. Dumping dirt, rock, other materials.

(a) No person shall dump or deposit or cause to be deposited or dumped, on any street, alley, sidewalk, parkway, boulevard or public place, any dirt, earth, rock, clay, sand, shale, building material, debris or rubbish or any other material nor shall such material be dumped along the banks of the Missouri River unless authorized to do so by the proper authorities of the United States government.

(b) Nothing contained in this section shall prevent anyone performing the work of grading streets, alleys, parkways or boulevards or making improvements thereof from putting necessary materials at such places as may be prescribed by the specifications of his contract or as may be fixed by the director of public works and transportation.

(Code 1969, § 19-2; G.O. 1950, 6-9-03)

Sec. 25-6. Depositing dirt or rubbish from abutting property.

No owner, his agent or occupant of any land abutting upon any street, alley, parkway, boulevard, sidewalk or public place of the city shall allow earth or any rubbish from such land to fall or wash upon any part of such street, alley, parkway, boulevard, sidewalk or public place. No such owner, his agent or occupant of any land abutting upon any street, alley, parkway, boulevard, sidewalk, or public place nor any other person shall throw or cause to be thrown any dirt or rubbish of any kind or any ice, snow or sleet upon such street, alley, parkway, boulevard, sidewalk or public place.

(Code 1969, § 19-3; G.O. 1950, 6-9-03)

Sec. 25-7. Injurious substances placed on paved streets.

No person shall place any substance likely to injure the pavement upon any paved street, alley, parkway, boulevard or other public place within the city.

(Code 1969, § 19-4; G.O. 1950, 6-9-03)

Sec. 25-8. Burning on paved streets.

No person shall burn any combustible matter of any kind on any asphaltic, concrete or brick paved street, alley, parkway, boulevard or public place within the limits of the city.

(Code 1969, § 19-5; G.O. 1950, 6-9-03)

Cross reference(s)--Air pollution, § 15-81 et seq.; burning solid waste, § 24-12.

Sec. 25-9. Land disturbance permit fees.

Land Disturbance Permit Fees. Effective January 1, 2003, the fees for the issuance of land disturbance permits shall be as follows:

- (1) Base Fee (Up to one acre) - \$60.00.
- (2) Over one acre - \$5.00 per acre plus the base fee.
- (3) Land Disturbance Remediation Fee - The actual cost of staff time, materials, equipment or contractor costs incurred.
(G.O. 1908, 11-25-02; G.O. 1950, 6-9-03; G.O. 2145, 12-5-05)

Sec. 25-10. Electronic Geographic Information System (GIS) data subscription and reproduction fees.

(a) The following subscription and reproduction fees for the city's electronic Geographic Information System (GIS) data are required:

- (1) 2004 aerial photography and contours (entire city).....\$2,500.00
- (2) 2004 aerial photography and contours (quarter section only).....\$200.00
- (3) 1996 aerial photography and contours (entire city but only available if the entire city 2004 photography and contours are purchased as well)\$500.00
- (4) 1996 aerial photography and contours (quarter section only).....\$100.00
- (5) Sewer district maps (entire database within the city but only available if the entire city 2004 photography and contours are purchased as well).....\$500.00
- (6) Quarter section maps, street centerline maps, Average Daily Traffic, summary maps (entire city but only available if the entire city 2004 photography and contours are purchased as well).....\$500.00

(7) Reproduction costs for hardcopies shall be:

- a. 24" x 36" \$ 6.00
- b. 36" x 36" \$ 8.00

(b) The proceeds from the sale of this information shall be placed in a restricted fund to be established by special ordinance to be used solely for the purchase, upgrade or revision of GIS information and data.

(c) The city does not warrant, guarantee or otherwise vouch for the quality or accuracy of the provided information. Nor shall the information be represented as of a quality sufficient for design purposes.

(d) The GIS data shall not be resold, given or in any way provided to any third parties if not part of a work product that involves the use of the information in the preparation of a design product.

(e) That the term of the subscription fee shall extend only to the date of the next aerial photography and contour update and shall not entitle a subscriber to access said information without the receipt of additional consideration.
(G.O. 2091, 4-25-05)

Secs. 25-11--25-50. Reserved.

ARTICLE II. CONSTRUCTION, REPAIR AND MAINTENANCE

DIVISION 1. GENERALLY

Sec. 25-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Repair includes the keeping in good order and proper place any and all improvements.
(Code 1969, § 19-57; G.O. 1950, 6-9-03)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 25-52. City divided into districts.

The city shall be divided by ordinances into convenient sprinkling, oiling, dust-controlling, repairing, surfacing and resurfacing districts. (Code 1969, § 8-152.2; G.O. 1950, 6-9-03)

Sec. 25-53. Permit.

(a) No person shall construct, repair or reconstruct a pavement, curb, gutter or sidewalk without a permit from the director of public works and transportation.

(b) Whenever any property owner desires to construct, repair or reconstruct pavement, curbs, gutters and sidewalks conforming to standard specifications as provided in this article, he shall apply to the director of public works and transportation, for a permit to do so, and the director, upon the payment of an inspection fee of \$35.00 may issue a permit to construct, repair or reconstruct such pavements, curbs, gutters and sidewalks, stating the character of the pavement, curb, gutter or sidewalk to be laid and the location thereof.

(c) The director of public works and transportation is authorized to issue permits upon request of the owner or agent of the owner of private property to construct, repair or reconstruct pavements, curbs, sidewalks and gutters, at their expense, to the streets, alleys, parkways, boulevards or thoroughfares adjacent to or running through their property, when such are, in their judgment, reasonably necessary for public travel. (Code 1969, §§ 19-49--19-51; G.O. 1950, 6-9-03)

Sec. 25-54. Street maintenance.

The city shall have full maintenance responsibility for the street surface, subsurface and accompanying drainage improvements. (Code 1969, § 19-40; G.O. 1950, 6-9-03)

Sec. 25-55. Specifications for, supervision of work.

The plans and specifications for the work described in Section 25-53(c) shall first be approved by the director of public works and transportation and the work shall be under the standard specifications of the director for public work of like character and under direction and

supervision and to the satisfaction of the director of public works and transportation. (Code 1969, § 19-52; G.O. 1950, 6-9-03)

Sec. 25-56. Standard specifications applicable to work.

A copy of the standard specifications of the director of public works and transportation for the construction of pavements, curbs, gutters and sidewalks of the public streets, alleys, parkways and boulevards of the city shall be attached to and made a part of all special permits granting permission to private parties for work regulated in this article.

(Code 1969, § 19-53; G.O. 1950, 6-9-03)

Sec. 25-57. Special permit.

Any other incidental excavation, use or installation within the rights-of-way not specifically provided for herein, other than by the city itself, shall be permitted only by special permit issued by the director of public works and transportation which may be approved, conditioned or denied as may be necessary to ensure consistency with the requirements and purposes of this chapter and Chapter 29 to ensure the appropriateness of such use without interference with other public uses.

(G.O. 2112, 7-5-05)

Secs. 25-58--25-75. Reserved.

DIVISION 2. SIDEWALKS, CURBS AND GUTTERS

Sec. 25-76. Width, thickness of sidewalks.

(a) *Width.* Sidewalks built or replaced shall be constructed of concrete not less than five feet wide. However, if the sidewalk is already in place and is similar to an adjoining sidewalk, the replacement of the sidewalk may coincide in width to the adjoining sidewalk. If such space is not available between the property line and curb-line, the sidewalk shall be built or replaced the full width between the property line and curblines.

(b) *Thickness.* The concrete sidewalk shall be at least four inches thick and shall be built in accordance with the requirements established in

this code or pursuant to the rules and regulations of the director of public works and transportation. (Code 1969, § 19-54; G.O. 1950, 6-9-03)

State law reference(s)--Wheelchair ramps, RSMo 71.365, 71.367.

Sec. 25-77. Maintenance by abutting owner or occupant.

No owner or occupant of any house, building, lot or premises (if several persons are occupying the same house or building, the one occupying the first floor next to the sidewalk) shall permit or allow the sidewalk or any cellar door or grating or stairway in such sidewalk or any curbing or guttering in front or alongside of such house, building, lot or premises to be or remain out of repair or shall suffer or allow such sidewalk, curbing or guttering to be or remain above or below the established grade of the sidewalk, curb or gutter.

(Code 1969, § 19-55; G.O. 1950, 6-9-03)

Sec. 25-78. Removal of ice, snow, dirt and litter.

(a) It shall be the duty of all persons owning or occupying any real property fronting upon any street, parkway, boulevard or public place to:

- (1) Keep the sidewalk, curbing and guttering in front of and alongside of the property in good order and free of obstructions;
- (2) Clean the sidewalk, curb and gutter; and
- (3) Remove from any such sidewalk, curbing or guttering all ice, snow, earth or other substance that in any way obstructs or renders the sidewalk, curb and gutter dangerous, inconvenient or annoying to any person.

(b) All sidewalks and sidewalk spaces shall be kept clean and free of all dirt and litter by the owners or occupants of the property fronting on the sidewalks or sidewalk spaces or along the side of the property.

(Code 1969, § 19-8; G.O. 1950, 6-9-03)

Sec. 25-79. Repairs, reconstruction.

Jurisdiction of director of public works and transportation. It shall be the duty of the owners or agents of real property under the control and

management of the director of public works and transportation to make repairs to and reconstruction and renewal of the sidewalks, parking spaces, curbing and guttering abutting or adjoining such property, on the front or the side thereof, and to remove therefrom all weeds, earth, or other obstructions or substances.

(Code 1969, § 19-56; G.O. 1950, 6-9-03)

Sec. 25-80. Noncompliance with order of director of public works and transportation.

(a) *Authority.*

- (1) Should any property owner or agent, after seven day's written notice from the director of public works and transportation or his designee fail, neglect or refuse to remove such weeds as required by Section 25-79, the city may cause the removal of said weeds to be done, and recover therefor the cost of such weed removal, which may be recovered, together with costs and expenses, by civil action. When weeds are not removed from sidewalks by the owner liable therefor, the cost thereof, in the first instance, shall be paid out of the general revenue of the city, when no sidewalk repair fund exists or such fund has no funds to its credit.
- (2) Should any property owner or agent, after 30 days' written notice from the director of public works and transportation, fail,

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neglect or refuse to make repairs or removals required by Section 25-79 other than weeds, the city may cause the repairs or removals to be made or done and recover therefor from the owner of such property the cost of such repairs or removals, which may be recovered, together with costs and expenses, by civil action. When repairs, reconstruction or renewals to sidewalks, curbing or guttering are not made by the owner liable therefor, the cost thereof, in the first instance, shall be paid out of the general revenue of the city, when no sidewalk repair fund exists or such fund has no funds to its credit.

(b) *Special tax bills.* Upon the completion of any of such repairs, renewals or removals, the director of public works and transportation shall make out special tax bills therefor in favor of the city for the cost of such repairs or removals, which bills shall be registered and collected by and in the name of the city or in favor of the contractor if such work is done by contract. Such tax bills shall constitute a valid and existing lien against the property liable therefor from the date of issuance and, if not paid within 20 days from the date of issuance, shall bear interest at the rate of eight percent per annum until paid. Such tax bills shall be deposited with the director of financial services upon whose receipt for payment the tax bills shall be satisfied of record in the office of the director of public works and transportation.

(c) *Sidewalk repair fund.* The moneys paid into the city coming from such costs or tax bills shall be set aside as a sidewalk repair fund and may not be used for any other purpose than sidewalk, curb and gutter repairs and for the removal of all weeds, earth and obstructions therefrom.

(d) *Weed abatement procedure.* Whenever the director of public works and transportation finds that a property owner is in violation of this article, the procedure for abatement shall be as follows:

- (1) *Notice.* The director of public works and transportation or his or her designee shall notify the person causing, maintaining or permitting the weed growth that he/she must abate or remove such weeds within seven calendar days. Such notice shall be

required in order to abate the weed growth pursuant to the provisions of Subsection (a) of this section, but shall not be a prerequisite for a violation of this article.

Initial notification shall be made by delivering the notice or by depositing it in the United States mail, postage prepaid, addressed to the owner of the property and/or the person occupying the property. If notification is not made by delivery or by mail, then it shall be by one or more of the following methods:

- a. If such property is not occupied, the director of public works and transportation or his or her designee shall, whether or not the owner is known, provide notification by posting a notice containing an order to abate or remove the weed growth, within a time to be specified in the notice, upon such property; or
- b. If the above method of service of notice cannot be successfully completed, then by a one-time publication in a daily newspaper within the city. Such notice by publication shall include a description of the weed growth to be abated and the location of the weed growth.

In instances where weeds and rank growths of vegetation are allowed to grow on the same property in violation of this article more than once during the same or successive growing seasons, the director of public works and transportation or his or her designee may provide notice addressed to the owner and/or the person occupying or having possession or the right to possession of the property by certified mail that the violation exists and that further violations regarding weeds and rank growths of vegetation during that growing season will be abated without notification.

(Code 1969, § 19-58; G.O. 1950, 6-9-03)

Secs. 25-81--25-89. Reserved.

(6/1/07)

**DIVISION 3. DESIGN, CONSTRUCTION AND
ACCESS MANAGEMENT STANDARDS**

Sec. 25-90. Authority to adopt standards.

The director of public works and transportation, hereinafter "director," is hereby authorized to propose, adopt, amend or rescind rules and regulations regarding the design, construction, and access to the streets, sidewalks, alleys or other public ways, the storm water system, the sewerage system of the city, and right-of-way management standards.

(G.O. 1868, 1-7-02; G.O. 1950, 6-9-03)

Sec. 25-91. Procedure for proposing, adopting, amending, or rescinding rules and regulations.

(a) No proposed rule or regulation promulgated pursuant to the authority of Section 25-90 above shall be adopted unless:

- (1) Notice of a proposed rule or regulation is posted in the office of the city clerk along with three copies of the entire proposed rule or regulation and an explanation of the proposed rule or regulation or the change to an existing rule or regulation. Such notice shall include a statement that any person may file a statement in support of or in opposition to the proposed rulemaking with the director of public works and transportation within 30 days of filing with the office of the city clerk.
- (2) Notice of the proposed rule or regulation shall be published twice in a newspaper of general circulation in the city. Publication shall be on the same day of the week and on two consecutive weeks. Such notice shall include:
 - a. An explanation of the proposed rule or regulation; and
 - b. A notice that any person may file a statement in support of or in opposition to the proposed rulemaking with the director within 30 days of date of first publication of such notice; and
 - c. A notice that copies of the text of the rule are on file in the office of the city clerk for public review.

(3) Within 30 days following the end of the public comment period the director shall file findings and explanations that discuss any public comments received with the city clerk along with any amendments to the original proposed rule. Any such findings, explanations and amendments shall be forwarded to each person having made comment on the original rule. In the event that the director fails to file the findings, explanations and any desired amendments within the required 30 day period, the proposed rule shall be deemed abandoned.

(4) Within ten days after filing findings, explanations, and any amendments to the original proposed rule, the director shall issue and file with the office of the city clerk a final order of rulemaking which shall include a complete copy of the final text of the order. The final order of rule making shall become final ten days after filing with the office of the city clerk.

(5) In the event that the director has received no comment at the end of the public comment period described in Subsection (2) above, the director shall within ten days issue and file with the city clerk a final order of rulemaking which shall include a complete copy of the final text of the order. This final order of rulemaking shall become final ten days after filing with the office of the city clerk.

(b) The procedure for amending or rescinding any rule promulgated under the provisions of this section shall be the same as the procedure for adopting a new rule as described in Subsection (a) above.

(c) The director is hereby authorized to adopt rules on an emergency basis if, in the opinion of the director, the adoption of such a rule is necessary to protect the health, safety, and welfare of the citizens of St. Joseph. Such emergency rules shall be effective only during the interim period between the initiation of the formal rulemaking process above and the adoption of the final rule, provided that:

(1) No such rule shall be effective for longer than 90 days except that any emergency

rule may be extend for one 30 day period;
and,

- (2) Such emergency rule shall state in clear and specific terms the facts and reasons constituting the emergency and the danger to the health, safety, and welfare of the citizenry.

(G.O. 1868, 1-7-02; G.O. 1950, 6-9-03)

Sec. 25-92. Council authority to amend or rescind.

The Council of the City of St. Joseph, Missouri may, by ordinance, amend or rescind any rule adopted pursuant to Section 25-91 above.

(G.O. 1868, 1-7-02; G.O. 1950, 6-9-03)

Sec. 25-93. Appeal.

(a) Any person aggrieved of any decision of the director or by the application of any rule promulgated pursuant to Section 25-91 above shall first file a request for reconsideration with the director within thirty days of the date such person becomes aware of the application of the rule or within thirty days of the decision of the director. Such request shall state what relief is desired. The director shall issue a decision within 15 business days from the receipt of the reconsideration request. Such decision shall be mailed first-class, return receipt requested to the address provided by the person aggrieved.

(b) Any person remaining aggrieved after receipt of the director's decision may make application for review or variance with the board of zoning adjustment. Such application for review shall be filed with the city clerk not later than ten days following the receipt of the director's decision. Any such application for review or variance shall be taken up at the next regular meeting of the board of zoning adjustment at which a quorum is present. The board of zoning adjustment shall hear evidence from both the director and the aggrieved person and shall overturn the decision of the director or grant a variance only if doing so will not adversely impact the health, safety, and welfare of the citizens of the City of St. Joseph. The decision of the board of zoning adjustment shall be final.

(c) Any person aggrieved of any decision of the board of zoning adjustment may appeal to a

court of competent jurisdiction as provided by law.

(G.O. 1868, 1-7-02; G.O. 1950, 6-9-03)

Sec. 25-94. Fees.

Fees for permits issued pursuant to this division are established as \$40.00.

(G.O. 1950, 6-9-03)

Sec. 25-95. Penalty.

(a) No person shall knowingly violate any rule or order adopted or issued by the director pursuant to Section 25-91 above.

(b) Any person pleading guilty or having been found guilty of violating Subsection (a) above shall be subject to a fine of not more than \$500.00.

(c) Each day a violation of Subsection (a) continues shall constitute a separate violation.

(G.O. 1868, 1-7-02; G.O. 1950, 6-9-03)

Secs. 25-96 -- 25-100. Reserved.

ARTICLE III. EXCAVATIONS*

DIVISION 1. GENERALLY

Sec. 25-101. Rules and regulations to implement article.

The director of public works and transportation, may prescribe such rules and regulations to be followed and performed by any person engaged in excavating streets, alleys, sidewalks, boulevards, parkways and public places as may be necessary for the safety and convenience of the public and the proper handling and dispatch of the work; provided, however, that no rules or regulations shall be contrary to the provisions of this article.

(Code 1969, § 19-93; G.O. 1950, 6-9-03)

*State law reference(s)--Excavations generally, RSMo 319.010 et seq.

Sec. 25-102. Contracts to repair street, boulevard and sidewalk excavations.

The director of public works and transportation may take bids and award contracts to the lowest and best bidder to repair street, boulevard and sidewalk excavations in streets and boulevards by backfilling and repaving the street, boulevard or sidewalk.

(Code 1969, § 19-92)

Sec. 25-103. Standards.

(a) The person making a cut or excavation as provided in this article shall make it in the manner prescribed in the standards and specifications on file in the department of public works and transportation, a copy of which is attached to and made a part of the required permit.

(b) The person making a cut or excavation shall cause the cut or excavation to be done with the least possible injury to the street, alley, sidewalk, parkway, boulevard or public place and shall remove the paving material and excavated earth there from in such a manner as to cause the least possible inconvenience to the public and permit uninterrupted passage of water along the gutters. The width of the cut or excavation shall be no greater than is necessary for doing the work.

(Code 1969, § 19-77)

Sec. 25-104. Refilling.

(a) *Notice required.* The person making a cut or excavation in, through or under any street, alley, sidewalk, parkway, boulevard or public place in the city shall notify the department of public works and transportation of his intention to commence the refill of the cut or excavation at least four hours prior to the actual commencing thereof. However, if the city or its authorized contractor is to refill the cut or excavation, he shall notify the department of public works and transportation or the department of parks and recreation, as the case may be, when the excavation is ready for filling.

(b) *Standards prescribed.* The filling of all cuts or excavations made in any street, alley, sidewalk, parkway, boulevard or public place in the city shall be in accordance with the plans and specifications on file in the office of the director

of public works and transportation, a copy of which is attached to and made a part of the required permit.

(c) *Unsatisfactory refill.* If, at the inspection prior to repaving, the department of public works and transportation, or one of its street inspectors, determines that the refill is not satisfactory, it shall have the right to take out all of the filled material from the excavation and have the excavation refilled at the expense of the person to whom the permit was issued and charge the cost thereof against such person.

(d) *Authority of city.* The city may notify the person at the time the permit is issued that the city or its authorized contractor will refill the cut or excavation. In such event the permit holder shall reimburse the city for the cost thereof, as established by a schedule for doing the work and the payment of the charges.

(e) *Removal of waste, debris.* The person making such refill shall be required to clean up and haul away all surplus earth, rock or rubbish immediately after the refill has been completed. For a default thereof, the city or its authorized contractor shall have the right to remove the earth, rock or rubbish and charge the cost of such removal against the person to whom the permit was issued.

(f) *Repairs by city.* If settlement due to defective refill occurs after the completion of repaving, the city or its authorized contractor shall have the right to make whatever repairs are required to restore the excavation and repaving to a proper condition and to charge the cost thereof against the person to whom the permit was issued. (Code 1969, § 19-79; G.O. 1950, 6-9-03)

Sec. 25-105. Contracts for refilling and resurfacing.

The city may contract for the refilling and resurfacing of cuts and excavations. The contract shall be let in the same manner as city public improvement contracts, and shall be for a period of time not to exceed three years.

(Code 1969, § 19-80)

Sec. 25-106. Performance of refilling, resurfacing work.

(a) The refilling and resurfacing of a cut or excavation shall be done by the city or its authorized contractor, except for individual cuts having an area of 100 square feet or more and cuts for the purpose of extending an existing utility line, in which cases the person making the cut may perform the repair work in accordance with the standards and specifications established by the director of public works and transportation.

(b) At the time a required permit is issued, the city shall notify such person that he shall be required to repave and resurface the cut or excavation.

(Code 1969, § 19-81)

Sec. 25-107. Erection of barriers, lights and placement of steel plates to protect public.

(a) Every person who shall for any purpose make or cause to be made any cut or excavation in, upon, through, under or adjoining any street, alley, sidewalk, parkway, boulevard or other public place and shall leave any part or portion thereof open or shall leave any part or portion thereof obstructed with rubbish, building or other material during the time the work is being done shall cause the cut, excavation or obstruction to be safeguarded as follows:

- (1) Any such cut or excavation shall be reclosed with good, substantial and sufficient barriers not less than three feet high. At nighttime one yellow light or flare shall be securely and conspicuously posted in or near such cut or excavation, building material or obstruction, if such does not extend more than eight feet in length; if over eight and less than 16 feet in length, two yellow lights or flares, one at each end, shall so be placed; and if exceeding 16 feet in length, an intermediate yellow light or flare shall be placed between the two end lights and an additional intermediate yellow light or flare shall be placed for each eight feet of additional length of the cut or excavation, building material or obstruction;
- (2) When the cut, excavation, building material or obstruction is made or placed in the direction of travel, a yellow light shall be placed at each end, when such is

as much as 20 feet and less than 50 feet in length, and when exceeding 50 feet in length, one intermediate light shall be placed for each additional 50 feet or fraction thereof; and

- (3) Any and all such lights shall be kept burning from sunset to sunrise.

(b) On any and all arterial streets or collector streets, as so designated by the city council, steel plates shall be placed over all excavated cuts, backfilled trenches or cuts left below the surface of traffic lanes. The steel plate requirement shall be in addition to barrier and light erections under Subsection (a) of this section. The steel plate shall meet the approval of the director of public works and transportation.

(c) On any and all work performed under this section, any debris, dirt, rock or other material that would obstruct or impair any right-of-way or access thereto shall be removed or remedied to provide unimpeded access thereto.

(Gen. Ord. No. 907, § 2(19-86), 10-28-91)

Sec. 25-108. Walkway, driveway required across certain excavations.

Whenever a person shall excavate the full width of any street, sidewalk, alley, parkway, boulevard or public place, it shall be his duty to maintain a substantial walkway or driveway across the excavation until it is refilled.

(Code 1969, § 19-87)

Sec. 25-109. Sidewalk excavations by property owners.

Whenever any property owner or any person representing him shall have stated in his application for a permit to excavate through or under a sidewalk that he desires to repair the sidewalk himself or by his representative and that he will guard the excavation or defective sidewalk until such repairs are made, by barricades and lights as provided in this article, and that such sidewalk shall be repaired immediately after the excavation through or under the sidewalk has been completed, such property owner or his representative shall have the right to repair the sidewalk, provided such repair is made under the supervision and inspection of the director of public works and transportation.

(Code 1969, § 19-88; G.O. 1950, 6-9-03)

Sec. 25-110. Work requiring cut, excavation to be completed before paving, resurfacing.

(a) Upon the passage of any ordinance providing for the paving, repaving or resurfacing of any street, alley, parkway or boulevard, the director of public works and transportation before the improvement is actually commenced, shall notify every property owner abutting the street, alley, parkway or boulevard that upon the expiration of the time to be named in the notice, which time shall not be less than 15 days from the date of the notice, the improvement of the street, alley, parkway or boulevard will be commenced, and advising such property owners to obtain permits for and to complete all work that might in any way necessitate cutting or excavating in, under or through the street, alley, parkway or boulevard or any part thereof after such improvement has been completed. The notice may be served personally on the property owner or his agent or by registered letter mailed to the last known address of the property owner or agent or by publishing a notice thereof in the newspaper doing the city printing. The giving of notice shall not be construed as a prerequisite to the validity of the proceedings under the ordinance.

(b) Upon the determination of the director of public works and transportation to pave, repave or resurface any street, alley, parkway or boulevard he shall, before the improvement is actually commenced, notify every property owner abutting on the street, alley, parkway or boulevard in the same manner as is provided in this section. (Code 1969, §§ 19-89, 19-90; G.O. 1950, 6-9-03)

Secs. 25-111--25-130. Reserved.

DIVISION 2. PERMIT

Sec. 25-131. Required.

(a) No person shall make or cause to be made any cuts or excavations in, through or under any street, alley, sidewalk, parkway, boulevard or public place in the city, for any purpose whatsoever, without a permit therefor being first obtained from the department of public works and transportation.

(b) No person shall make or cause to be made any cuts or excavations in, through or under any state-maintained highway or thoroughfare, including the Belt Highway (Highway 169), except in accordance with the regulations and rules of the state highway commission and only after a permit for the specific work has been obtained from the commission's district engineer or his authorized representative.

(c) No public service company shall make any connection with any water main in any cut or excavation in the streets, alleys, sidewalks, parkways or boulevards in the city unless the person making such cut or excavation or causing the cut or excavation to be made shall exhibit a permit from the department of public works and transportation to make such cut or excavation to such public service company.

(d) A separate permit shall be obtained for each cut or excavation to be made. (Code 1969, §§ 19-70, 19-74, 19-78; G.O. 1950, 6-9-03)

Sec. 25-132. Application.

(a) All applications for permits under this article shall be signed by the person or his duly authorized agent who desires to do the work designated in the application. The application shall not be assignable, and no person shall allow his name to be used to obtain a permit for any other person.

(b) The application for the permit shall designate, on the map or diagram to be filed in connection with the application, the location of the proposed cut or excavation to be made, in such a manner that the house number or lot number in front of which and the side of the street, alley, sidewalk, parkway, boulevard or public place on which the cut or excavation is to be made shall be plainly indicated. The map or diagram shall also show the dimensions and character of the proposed cut or excavation and shall bear the certificate of the plumbing inspector to the effect that no plumbing work is to be done in the excavation or thereunder or that a proper permit for the plumbing work there contemplated has been issued by the director of public works and transportation.

(Code 1969, § 19-71)

Sec. 25-133. Approval of plumbing inspector prerequisite to issuance.

No permit under this article shall be issued until the plumbing inspector shall have approved the application therefor, in writing.
(Code 1969, § 19-73)

Sec. 25-134. Fee.

(a) The sum of \$2.50 shall be charged for each excavation under 100 square feet and an additional \$2.50 for each 100 square feet or part thereof.

(b) All permit fees required in this section shall be paid to the department of public works and transportation and shall be remitted by such department to the director of financial services to be placed to the credit of the proper park district fund or the street improvement, maintenance and repair fund.
(Code 1969, § 19-72; G.O. 1950, 6-9-03)

Sec. 25-135. License tax.

If a permit is issued as provided in this division for the cutting or excavating in, under and through any street, alley, parkway or boulevard paved, repaved or resurfaced by the city, the person, in addition to the permit fee provided in this division, shall be assessed a license tax or fee in the amount thereof to be determined as follows:

- (1) For each six square yards of pavement cut or fraction thereof of:

Portland concrete pavement.....	\$ 75.00
Asphalt concrete	75.00
Bituminous surface treatment	45.00
Seal coat	15.00

when application for a permit is made within one year from the completion of the improvement.

- (2) When the application is made after one year, the amount shall be reduced by one-third for each full year intervening from the completion of the improvement, to the time application is made for a permit to open, and no license tax or fee, save cost of replacement, shall be charged after six

years from the date of completion of the improvement.

- (3) No license tax or fee shall be exacted where the opening in the street, alley, parkway or boulevard is made solely to investigate or repair leaks or breaks in pipes.

(Code 1969, § 19-91(b))

Sec. 25-136. Commencement of work.

A cut or excavation shall begin within ten days from the date of the issuance of the permit therefor, and for default thereof, a new permit or extension of the original permit shall be required before the cut or excavation is made.

(Code 1969, § 19-75)

Sec. 25-137. Bond requirements.

(a) *Generally.* Before any permit referred to in this article shall be issued for any cuts or excavations in, through or under any street, alley, sidewalk, parkway, boulevard or public place in the city, the applicant for such permit shall have deposited with the director of public works and transportation his bond in the penal sum of \$2,000.00, in the proper form approved by the city attorney, conditioned that the principal thereunder shall save harmless and indemnify the city on account of damages because of any cut or excavation. However, if the city or director of public works and transportation elects to do the refilling or repaving or resurfacing of the cut or excavation, the principal shall not be liable on the bond after the work of refilling or repaving or resurfacing commences. The bond shall be renewed yearly, and a surety company licensed to do business in this state shall be deemed to be a qualified surety.

(b) *Exceptions.* Bond shall not be required for sidewalk repaving or construction when the applicant does the work on sidewalks adjacent to property he owns and makes his residence.

(Code 1969, § 19-76)

Secs. 25-138--25-160. Reserved.

**ARTICLE IV. HAULING EARTH, ROCK
AND SIMILAR MATERIALS**

DIVISION 1. GENERALLY

Sec. 25-161. Authority of director of public works and transportation in extreme and extraordinary cases.

In individual cases of extreme, extraordinary and undue hardship, with special reference to haulers of small loads or amounts of earth, dirt, rock, clay, sand or shale who may also have a large number of deliveries or hauling of such, necessitating a large number of permits, making it difficult or impossible to designate the routes over which such is to be hauled within the city, thereby making it impossible fully to comply with the other terms of this article, and in cases of undue, extraordinary and extreme hardship which may be determined and considered to be such in the exercise of the sound and reasonable judgment and discretion of the director of public works and transportation, the director may grant relief and may impose such other conditions as he may deem reasonable and proper with respect thereto, not provided by this article, to give full protection to the city and to ensure substantial compliance with the provisions of this article, including the issuance of a blanket permit secured by an appropriate and sufficient bond or cashier's check in an amount to be determined by the director in such extraordinary and extreme cases. (Code 1969, § 19-108; G.O. 1950, 6-9-03)

Sec. 25-162. Use of wagons, vehicles.

It shall be the duty of any person to whom a permit is issued, as provided in this article, to use wagons or vehicles of such construction as the director of public works and transportation may approve and to load such wagons or vehicles in such manner as to prevent the spilling or wasting of earth, dirt, rock, clay, sand, shale, debris, rubbish or other material therefrom in passing over the streets, alleys, sidewalks, parkways, boulevards or public places. (Code 1969, § 19-109; G.O. 1950, 6-9-03)

Sec. 25-163. Notice to remove spilled materials.

Whenever any person to whom any permit has been issued under the authority of this article shall be notified by the director of public works and transportation to remove any dirt, earth, rock, clay, sand, shale, debris, rubbish or other material deposited, spilled or dropped on any street, alley, sidewalk, parkway, boulevard or public place in the performance of the work contemplated in such permit, he shall remove the material or cause the

material to be removed and such street, alley, sidewalk, parkway, boulevard or public place to be restored to its former condition to the satisfaction of the public works and transportation director within 12 hours. If the person shall fail to remove the dirt, earth, rock, sand, shale, debris, rubbish or other material deposited, spilled or dropped on any street, alley, sidewalk, parkway, boulevard or public place or shall perform the work in an improper manner, the director of public works and transportation may cause the work to be done at the expense of and out of the money especially deposited at the time of the issuance of the permit.

(Code 1969, § 19-110; G.O. 1950, 6-9-03)

Secs. 25-164--25-185. Reserved.

DIVISION 2. PERMIT

Sec. 25-186. Required.

No person shall deposit or cause to be deposited on any street, alley, sidewalk, parkway, boulevard or public place or cause to be moved on or along or across such street, alley, sidewalk, parkway, boulevard or public place any dirt, earth, rock, clay, sand, shale, debris or rubbish or any material for the purpose of grading or making an excavation or fill on any private property or public work without first obtaining a permit therefor from the director of public works and transportation.

(Code 1969, § 19-104; G.O. 1950, 6-9-03)

Sec. 25-187. Application.

The application for the permit required in Section 25-186 shall be signed by the person desiring to do the work therein contemplated or his agent and shall state the place from which the dirt, earth, rock, clay, sand, shale, debris or rubbish or other material is to be removed and the place to which the material is to be hauled or deposited, together with the approximate estimate of the cubic yards embraced in the work.

(Code 1969, § 19-105; G.O. 1950, 6-9-03)

Sec. 25-188. Deposit.

The application for the permit required in this division shall be accompanied by a deposit in the following amounts:

- (1) Where the amount of earth, dirt, rock, clay, sand, shale, debris or rubbish or any material for the purpose of grading or making an excavation or fill on any private property or public work to be hauled does not exceed 100 cubic yards, a deposit shall be made of \$20.00.
- (2) Where the amount of dirt, earth, rock, clay, sand, shale, debris or rubbish or any material for the purpose of grading or making an excavation or fill on any private property or public work to be hauled exceeds 100 cubic yards and does not exceed 1,000 cubic yards, the deposit shall be \$40.00.
- (3) Where the amount of earth, dirt, rock, clay, sand, shale, debris or rubbish or any material for the purpose of grading or making an excavation or fill on any private property or public work to be hauled exceeds 1,000 cubic yards, the amount of deposit shall be not less than \$40.00 nor more than \$100.00 as may be fixed by the director of public works and transportation.
(Code 1969, § 19-106; G.O. 1950, 6-9-03)

Sec. 25-189. Issuance.

The director of public works and transportation shall issue a permit under this division for each wagon or vehicle doing the work described in Section 25-186, designating thereon the part of paved streets, alleys, sidewalks, parkways, boulevards or public place or over or across or upon which the material is to be hauled and the time when such work shall be permitted. The director of public works and transportation may require as a condition to the issuance of that permit that the responsible party provide a sufficient bond or a cashier's check in an amount determined by the director of public works and transportation to restore the public area to its former condition.
(Code 1969, § 19-107; G.O. 1950, 6-9-03)

Sec. 25-190. Use of fund established upon issuance of permit.

The balance of the fund, if any, remaining after the completion of work by the city under this article shall be returned to the person depositing the funds. If at any time the deposit

shall prove to be insufficient, the director of public works and transportation shall be empowered to stop further work and hauling until an additional amount shall have been deposited which, in the opinion of such director, shall be sufficient to maintain the streets, alleys, sidewalks, parkways, boulevards and public places clear of dirt, earth, rock, clay, sand, shale, building materials, debris, rubbish or any other material during the progress of the work. After the completion of such work, the balance of such deposit shall be returned to the person upon return of the permit and receipt issued to him.
(Code 1969, § 19-111; G.O. 1950, 6-9-03)

Sec. 25-191. Fees.

Fees for permits issued pursuant to this division are established as \$85.00.
(G.O. 1950, 6-9-03)

Secs. 25-192--25-220. Reserved.

**ARTICLE V. POLES, WIRES AND
CONDUITS***

Sec. 25-221. Scope of article.

All telegraph, telephone, electric light and power companies and all other persons doing business in the city by erecting poles and laying buried cables or conduits for the purpose of carrying electric wires over, along, under or through the streets or sidewalks of the city shall be subject to the regulations provided in this article.
(Code 1969, § 19-122; G.O. 1950, 6-9-03)

Sec. 25-222. Rights reserved to city.

Nothing contained in this article shall be so construed as in any manner to affect the right of the city to prescribe other regulations pertaining to poles, conduits or buried cables.
(Code 1969, § 19-135; G.O. 1950, 6-9-03)

*Cross reference(s)--Utilities, ch. 29.

Sec. 25-223. Plat of proposed line of poles or conduits--submission, contents.

Before anyone shall lay any buried cable or conduit or erect any poles upon any street or boulevard of the city, he shall submit for approval to the director of public works and transportation

a map or plat showing the route of the proposed line, stating the name of the street or sidewalk to be occupied or, if an alley, describing the location, and as far as is practicable the exact location of each pole and line of buried cable or conduit.

(Code 1969, § 19-129; G.O. 1950, 6-9-03)

Sec. 25-224. Same--approval, alterations.

If the director of public works and transportation shall approve the map or plat showing the route of the proposed line of poles, buried cables, or conduits submitted for his approval as provided in Section 25-223, he shall note his approval thereon. If the proposed route fails to meet with his approval, he shall have power and authority to change and alter the proposed route or the location of any buried cable or conduit or pole thereon, and if in his opinion such changes and alterations are for the best interests of the city, it shall be the duty of the director of public works and transportation, to designate on the map or plat all such alterations and changes made by him in such route.

(Code 1969, § 19-130; G.O. 1950, 6-9-03)

Sec. 25-225. Excavations.

(a) *Authority of director of public works and transportation.* When anyone shall desire to make any excavation in any street or sidewalk for the purpose of laying any buried cable or conduit or erecting any pole, he shall submit to the director of public works and transportation the map or plat showing the proposed route and the location of the buried cables or conduits and poles thereon, and the director of public works and transportation shall issue a permit for the doing of such work. Such permit shall state the parts of the streets or sidewalks on which the work is to be done, and all such work shall be done under the supervision of the director of public works and transportation and shall be governed by and be subject to all the terms and provisions of law relating to street excavations.

(b) *Manner of doing work.* No person shall open or disturb, in the laying of buried cables or conduits or in the erection of poles, more of any street or sidewalk than may be necessary to enable him to proceed with advantage in the laying of such buried cables or conduits or the erection of poles or in the repairing of such, nor shall any person permit any street or sidewalk so

opened or disturbed by him to be in any way encumbered with dirt, rubbish or material for a longer period than shall, in the opinion of the director of public works and transportation be necessary. In crossing any street or sidewalk he shall, when directed by the director of public works and transportation construct buried cables or conduits and erect poles during such hours and with such expedition as to least hinder and impede public travel.

(Code 1969, § 19-131; G.O. 1950, 6-9-03)

Sec. 25-226. Vertical clearance of wires.

(a) The minimum vertical clearance of wires shall be not less than 18 feet from the grade of the street upon which they are erected. This clearance may be reduced to 13 feet for communication conductors where no part of the line overhangs any part of the traveled portion of a street or where it is unlikely that loaded vehicles will be crossing under the line. None of the clearances required in this subsection shall be applicable to anchor guys or wires not crossing streets or alleys.

(b) Whenever the director of public works and transportation, shall deem it necessary for the public safety or in the public interest, he/she may require, upon reasonable notice, that greater vertical clearances be maintained than those set out in Subsection (a) of this section.

(Code 1969, § 19-123; G.O. 1950, 6-9-03)

Sec. 25-227. Minimum standards for poles.

Telephone, telegraph, electric light and power poles shall be of sound material, shapely and of uniform size, if wood, neatly planed or shaved, and shall be of such initial size to withstand safely the loads to which they may be subjected. Whenever any pole, crossarm or fastening of wires has rotted or deteriorated so that, in the opinion of the director of public works and transportation it shall constitute a source of danger to the public safety, such pole, appurtenance or wire shall, within a reasonable time after notification by such director, be put in a safe condition by the owner thereof.

(Code 1969, § 19-124; G.O. 1950, 6-9-03)

Sec. 25-228. Placing, marking of poles.

Whenever poles are erected on a street, they shall be placed, when practicable, just inside the

curbline and in any event shall be so placed as not to obstruct the drainage of the streets. Any damage to public or private property resulting from the placing of the poles shall be repaired or compensated for by the parties responsible for the damage. Each pole shall be so marked in a conspicuous place on the pole as to denote its ownership.

(Code 1969, § 19-125; G.O. 1950, 6-9-03)

Sec. 25-229. Use of conduit required in certain areas.

(a) Upon any and all boulevards within the corporate limits and within the following described territory:

Beginning at the intersection of Third and Jule Streets, then east along the north line of Jule Street to Fourth Street, then north along the west line of Fourth Street to Faraon Street, then east along the north line of Faraon Street to Ninth Street, then south along the west line of Ninth Street to Sylvania Street, then west along the south line of Sylvania Street to Fifth Street, then north along the west line of Fifth Street to Edmond Street, then west along the south line of Edmond Street to Third Street, then north along the west line of Third Street to Jule Street and the point of beginning;

all wires used for telephone, telegraph, electric light or power service shall be laid underground in pipes, buried cables or conduits. The system and kind of pipe, buried cable or conduit shall, before any work is done, be approved by the director of public works and transportation.

(b) This section shall not apply to any poles or wires located along any alley within such territory nor to any wires extending across any street or boulevard therein at any alley intersection or extending across any boulevard within the corporate limits of the city nor to any poles or wires used in connection with the operation of any urban transportation system.

(Code 1969, § 19-126; G.O. 1950, 6-9-03)

Sec. 25-230. Signal wires in downtown business district.

All clock, burglar alarm, commercial printer, nightwatch and other messenger callbox wires, carrying currents of low tension and not fastened or attached to poles or other fixtures placed or set in the streets or other public places, within the

limits named in Section 25-229, shall be permitted to remain overhead. All such wires shall be not less than 35 feet above the surface and securely fastened, such wire or cable shall be covered throughout with insulation, to be approved by the director of public works and transportation and each and every wire shall be tagged with lead tags, in such manner that it will be impossible to remove the tags without destroying the wire or the fixture to which it is attached, plainly marked with the owner's name.

(Code 1969, § 19-127; G.O. 1950, 6-9-03)

Sec. 25-231. Placing poles and conduits in alleys.

Whenever in the judgment of the director of public works and transportation the use of any alley for such purpose is practicable, the poles and conduits of telephone, telegraph, electric light or power companies shall be placed upon and along alleys, instead of upon and along the streets next adjoining and parallel thereto. Where the poles are set in any alley, they shall be located as near the sidelines of the alley as practicable and in such manner as not to inconvenience the public or adjoining property owners or residents. The director of public works and transportation may designate the portion of the alley in which the pipes, buried cables or conduits shall be laid.

(Code 1969, § 19-128; G.O. 1950, 6-9-03)

Sec. 25-232. Altering location of poles or conduits, height of wires.

The right is reserved to the director of public works and transportation if in his opinion the public interest requires, at any time to direct any reasonable alterations in the location of buried cables or conduits and poles and also in the height at which wires shall run. Before any such alteration is made, at least five days' notice in writing shall be given to the president or local managing officer of each of the companies affected by the proposed alteration, and a reasonable opportunity shall be afforded the representative of such company or any citizen interested to be heard therein. When any such alteration shall be ordered, the company shall, within a reasonable time to be prescribed by such director, commence such alterations and complete the alteration as soon as practicable thereafter. Any person may appeal from an order of the director of public works and transportation to the

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city council, who shall have power to approve or disapprove such order.
(Code 1969, § 19-132; G.O. 1950, 6-9-03)

Sec. 25-233. Change of conduit to conform to change of street grade.

Whenever the city shall grade or regrade any street or sidewalk along or across which any pipes or conduits have been laid, the owner or user of such pipe, buried cable or conduit shall, at his own expense, change such pipe, buried cable or conduit to conform to the grade of the street or sidewalk so graded or regraded on an order therefor from the director of public works and transportation.
(Code 1969, § 19-133; G.O. 1950, 6-9-03)

Sec. 25-234. Removing, disturbing lamppost.

No person shall take up, remove or in any way disturb any lamppost without first having obtained a permit in writing from the director of public works and transportation.
(Code 1969, § 19-134; G.O. 1950, 6-9-03)

Secs. 25-235--25-265. Reserved.

ARTICLE VI. TREES*

DIVISION 1. GENERALLY

Sec. 25-266. Permit to plant.

(a) It shall be unlawful for any person to excavate any opening, hole or pit in any street, parkway or sidewalk space of the city for the purpose of planting or setting a tree therein without a written permit from the director of public works and transportation.

*Cross reference(s)--Tree board, § 2-846; advertisements in parks or public grounds generally, § 3-3; injuring trees, shrubs, or flowers, § 20-103.

(b) Whenever any property owner desires to plant or set trees along the parkway or sidewalk space on any street in the city (planting and setting to conform to general specification for planting and setting trees approved by the director of public works and transportation and on file in the office of the director of public works and transportation) he shall apply to the director of

public works and transportation for a permit to do so, and the director may, thereupon, issue to him a permit to plant or set such trees, stating the species and kind of trees to be planted or set and the location thereof.

(c) Fees for this permit are established as \$17.00.
(Code 1969, §§ 19-146, 19-147; G.O. 1950, 6-9-03)

Sec. 25-267. Planting box elder, cottonwood tree prohibited.

No permit shall be issued for the planting of any box elder or cottonwood tree, and it shall be unlawful for any person to permit any box elder or cottonwood tree to remain planted or set out upon any sidewalk space or parkway.
(Code 1969, § 19-148)

Sec. 25-268. Permit to trim trees.

(a) *Required.* It shall be unlawful for any person to trim any trees standing in the street, boulevard, sidewalk space or parkway of the city without a written permit for the trimming of such trees from the director of public works and transportation or the director of parks and recreation, as the case may be.

(b) *Fee.* Fees for this permit are established as \$25.00.

(c) *Insurance.* Before the permit provided for in Subsection (a) of this section shall be issued, the applicant shall first present satisfactory evidence of public liability insurance, naming the city as coinsured, in the following amounts:

- (1) Twenty-five thousand dollars bodily injury for each person;
- (2) Fifty thousand dollars bodily injury for each accident; and
- (3) Twenty-five thousand dollars property damage.

(Code 1969, §§ 19-149, 19-150; G.O. 1950, 6-9-03)

Sec. 25-269. Minimum clearance of branches, limbs.

Every owner or occupant of any house, building, lot or premises shall keep the shade and ornamental trees in the streets or sidewalk spaces or parkways in front or alongside of such house, building, lot or premises trimmed so that the branches or limbs thereof shall be no lower than 14 feet from the surface of such street or sidewalk.

(Code 1969, § 19-151)

Sec. 25-270. Trees, branches interfering with or dangerous to traveling public.

(a) No owner, agent or occupant of property on which there are trees on the property or trees in the parkway in front of or alongside of such property shall permit any tree or branch to overhang a street, alley, boulevard, public way or sidewalk which is interfering with the traveling public or which is liable to fall and do injury to the traveling public because of its insecure and unsafe condition. When in such condition, the maintenance of such trees or branch is declared to be a public nuisance.

(b) If the owner, agent or occupant shall fail to remove such tree or branch, as described in Subsection (a) of this section, which threatens to injure the traveling public, the director of public works and transportation or the director of parks and recreation, as the case may be, is empowered to remove the tree or branch, entering upon private property, if necessary, at the expense of the owner, agent of the owner or occupant of the property, which expense may be recovered by the city in any court of competent jurisdiction in the county.

(Code 1969, § 19-152)

Secs. 25-271--25-300. Reserved.

DIVISION 2. MAINTENANCE

Sec. 25-301. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Arborist* means a commercial or public person involved with the recommendations or work of tree establishment, care, and removal.

- (2) *Branch collar* means a raised area of growth at the base of all branches that should not be cut or damaged during tree pruning operations.

- (3) *Directional pruning* means removal of or reduction in length of selected branches to encourage growth of the branch in a different direction; away from buildings or power lines of all types.

- (4) *Drip line* means the outer edges of tree crowns.

- (5) *Park trees* means trees in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

- (6) *Pruning/thinning* means the removal of dead branches, crossing branches or other branches that will improve structural problems that may exist (dual tops, sharp V angle branches) or the removal of hazardous branches (limbs growing into power line, house or other building), with all pruning leaving the tree in a natural shape.

- (7) *Raising of trees* means the removal of lower branches or the removal of smaller branches from larger branches to increase the clearance height of the limbs over streets, alleys, or buildings.

- (8) *Street trees* means trees on land lying between property lines on either side of all streets, avenues, or ways within the city.

(Gen. Ord. No. 1116, § 1(19-153), 9-13-93)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 25-302. Penalty.

Any person violating any provision of this division shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$500.00.
(Gen. Ord. No. 1116, § 1(19-162.4), 9-13-93)

Sec. 25-303. Tree board.

By virtue of the powers and duties provided for by General Ordinance No. 938, the St. Joseph Tree Board will help in the coordination of this division by providing recommendations to the city council.

(Gen. Ord. No. 1116, § 1(19-162.5), 9-13-93)

Sec. 25-304. Arborist's license and insurance.

(a) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25.00 annually in advance; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors.

(b) Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in minimum amounts of:

- (1) Twenty-five thousand dollars bodily injury for each person;
- (2) Fifty thousand dollars bodily injury for each accident; and
- (3) Twenty-five thousand dollars property damage;

indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as described in this division. Licenses and permits to close a street shall be obtained from the department of public works and transportation.

(Gen. Ord. No. 1116, § 1(19-162.3), 9-13-93)

Sec. 25-305. Street tree species to be planted.

The trees listed in this section will constitute the official street tree species for the city. A permit is required to plant as street trees those species listed, and is good for one year. Planting permits may be acquired from the director of public works and transportation. No species other than those in the following official street tree list may be planted as street trees without written permission of the city:

STREET TREE LIST

SMALL TREES

"Compact American" Arbovitae (Thuja occidentalis cv.)
 "Emerald" arbovitae (Thuja occidentalis cv.)
 "Nigra" Arbovitae
 "Elegantissima" Arboritae (T. orientalis cv. Elegantissima)
 Red Buckeye (Aesculus pavia)
 Common Buckthorn (Rhamnus cathartica)
 Weeping Cherry (P. subhirtellia var pendula)
 "Pink Cloud" Cherry
 "Autumnalis" Cherry (var. autumnalis)
 "Kwanzan" Cherry (P. serrulata cv. Kwanzan)
 "Mount Fujii" Cherry
 Sargent Cherry (Prunus sargentii)
 "Rancho" Cherry
 Yoshino Cherry (Prunus x yedoensis)
 Amur Chokecherry (Prunus mackii)
 "Schubert" Chokecherry (P. virginiana cv. Schubert)
 Crabapple**
 Corneliancherry Dogwood (Cornus mas)
 "Golden Glory" Corneliancherry
 Flowering Dogwood (C. florida)
 "Cloud Nine" Dogwood
 "Cherokee Chief" Dogwood
 "Pink Sachet" Dogwood
 Gray Dogwood (C. racemosa)
 Kousa Dogwood (C. kousa)
 Chinese Dogwood (C. kousa var. chinensis)
 "Milky Way" Dogwood
 "Summer Stars" (Dogwood)
 Pagoda Dogwood (C. alternifolia)
 Franklin-tree (Franklinia alata)
 White Fringtree (Chionanthus virginicus)
 Goldenchain (Laburnum x wateri)
 Cockspur Hawthorn (Crataegus crusgalli)
 Thornless Cockspur Hawthorn (var. inermis)
 "Hooks" Hawthorn
 English Hawthorn (Crataegus laevigata)
 "Paul's Scarlet" Hawthorn
 Lavelle Hawthorn (Crataegus x lavellei)
 "Ohio Pioneer" Hawthorn (C. punctata cv. Ohio Pioneer)
 "Stricta" Hawthorn (C. monogyna cv. Stricta)
 "Vaughn" Hawthorn (c. x Vaughn)
 Washington Hawthorn (C. phaenopyrum)
 "Winter King" Hawthorn (C. viridis cv. Winter King)
 Eastern Hemlock (Tsuga canadensis)
 Carolina Hemlock (Tsuga caroliniana)
 American Holly (Ilex opaca)
 Foster's Holly (L. attenuata cv. Foster's)

STREETS, SIDEWALKS AND MISCELLANEOUS PUBLIC PLACES
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Hoptree (*Ptelea trifoliata*)
American Hornbeam (*Carpinus caroliniana*)
"Fastigiata" Hornbeam
"Briotii" Horsechestnut
Japanese Tree Lilac (*Syringa reticulata*)
"Ivory Silk" Tree Lilac
"Globe" Locust
Amur Maackia (*Maackia amurensis*)
"Little Girl Hybrids" (*M. loebner* cv. Merrill)
Saucer Magnolia (*M. x soulangiana*)
Star Magnolia (*M. stellata*)
"Royal Star" Magnolia
Amur Maple (*Acer ginnala*)
"Flame" Maple
Fullmoon Maple (*A. japonicum*)

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Japanese Maple (*A. palmatum*)
 "Burgundy Lace" Maple
 "Bloodgood" Maple
 "Dissectum Atropurpureum" Maple
 Paper Bark Maple
 Tatarian
 Maple (*A. tataricum*)
 "Pendula" Japanese Pagoda
 Weeping Persian Parrotia
 Common Pawpaw (*Asimina triloba*)
 Japanese Black Pine (*Pinus thunbergii*)
 Japanese Red Pine (*Pinus densiflora*)
 Japanese White Pine (*Pinus bungeana*)
 Purple-leaf Plum (*Prunus cerasifera* cv. Thundercloud)
 Purpleleaf Sand Cherry (*Prunus x cistena*)
 Possumhaw (*Ilex decidua*)
 "Warren Red" Possumhaw
 Eastern Redbud (*Cercis Canadensis*)
 Whitebud (var. *alba*)
 "Forest Pansy" Redbud (*C. canadensis* cv. Forest Pansy)
 "Flame" Redbud
 "Oklahoma" Texas Redbud (*C. reniformis* cv. Oklahoma)
 "Burkii" Juniper (Redcedar)
 "Glaucua" Juniper (Redcedar)
 "Keteleeri" Juniper (*Juniperus chinensis* cv. Keteleeri)
 Russian-olive (*Elaeagus augustifolia*)
 Downy Serviceberry (*Amelanchier arborea*)
 "Robin Hill" Serviceberry (*A. x grandiflora* v. Robin Hill)
 "Autumn Brilliance" Serviceberry (*A. x grandiflora*)
 Allegheny Serviceberry (*a laevis* cv. Cumbus)
 American Smoketree (*cotinus obovatus*)
 Common Smoketree (*Cotinus coggygria*)
 "Daydream" Smoketree
 "Purpureus" Smoketree
 "Velvet Cloak" Smoketree
 Bigleaf Snowbell (*Styrax japonicus*)
 Japanese Snowbell (*Styrax japonicus*)
 Western Soapberry (*Sapindus drummondii*)
 Japanese Stewartia (*Stewartia pseudocamellia*)
 Korean Stewartia (*Stewartia koreana*)
 Mountain Stewartia (*Stewartia ovata*)
 Flameleaf (Shining) Sumac (*Rhus copallina*)
 Smooth Sumac (*Rhus glabra*)
 "Laciniata" Smooth Sumac
 Staghorn Sumac (*Rhus typhina*)
 "Dissecta" Sumac
 "Laciniata" Staghorn Sumac
 Japanese Umbrella-pine (*Sciadopitys verticillata*)
 Blackhaw (*Viburnum*) (*Viburnum prunifolium*)

Rusty Blackhaw (*Viburnum*) (*Viburnum rufidulum*)
 Eastern Wahoo (*Euonymus atropurpureus*)
 Pussy (Goat) Willow (*Salix caprea*)
 Vernal Witchhazel (*Hamamelis vernalis*)
 Common Witchhazel (*Hamamelis virginiana*)
 "Carnea" Witchhazel
 "Squib" Witchhazel
 "Christmas Cheer" Witchhazel
 Yellow Horn
 Chinese Zelkova

MEDIUM TREES

Black (European) Alder (*Alnus glutinosa*)
 "Fallgold" Ash (*Fraxinus nigra* cv. fallgold)
 Flowering Ash (*F. ornus*)
 European White Birch (*Betula pendula*)
 "Autumn Splendor" Buckeye (*A. x arnoldia*)
 Ohio Buckeye (*Aesculus glabra*)
 Atlas Cedar (*Cedrus atlantica*)
 Cedar of Lebanon (*Cedrus libani*)
 Chinese Chestnut (*Castanea mollissima*)
 Amur Corktree (*Phellodendron amurense*)
 Japanese Cryptomeria (*Cryptomeria japonica*)
 Dove-tree (*Davidia involucrata*)
 Eucommia (*Eucommia ulmoides*)
 Korean Fir (*Abies koreana*)
 Nikko Fir (*Abies homolepis*)
 Goldenrain (*Koelreuteria paniculata*)
 European Hornbeam (*Carpinus betulus*)
 "Autumn splendor" Horsechestnut (*A. x hybrida*)
 California Incensecedar (*Calodercrus decurrens*)
 European Larch (*Larix decidua*)
 Japanese Larch (*Larix kaempferi*)
 Crimean Linden (*Tilia x euchlora*)
 Silver Linden (*Tilia tomentosa*)
 "Galaxy" Magnolia (*Magnolia x Galaxy*)
 "Merrill" Magnolia (*M. loebner* cv. Merrill)
 Saucer Magnolia (*M. grandiflora*)
 Hedge Maple (*A. campestre*)
 "Queen Elizabeth" Maple
 Norway Maple (*A. platanoides*)
 "Deborah" Maple
 "Summershade" Maple
 "Emerald Queen" Maple
 "Crimson King" Maple
 "Norwegian Sunset" Maple (*A. truncatum* cv.)
 "Pacific Sunset" Maple
 Trident Maple (*A. buergeranum*)
 Korean Mountainash (*Sorbus alnifolia*)
 Meinichi Mountainash (*Sorbus x meinichii*)
 "Fastigiata" English Oak (*Q. robur* cv. Fastigiata)
 Sawtooth Oak (*Q. acutissima*)
 "Princeton Upright" Japanese Pagoda

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"Regent" Japanese Pagoda
 Paulownia (Princesstree) (*Paulownia tomentosa*)
 "Dancer" Pear (*Pyrus betulifolia* cv. dancer)
 "Bradford" Pear (*Pyrus calleryana* cv. bradford)
 "Aristocrat" Pear (*Pyrus callelryana* cv. Aristocrat)
 "Capital" Pear (*Pyrus calleryana* cv. Capital)
 "Cleveland Select" Pear (*P. calleryana* cv. cleveland Select)
 Austrian Pine (*Pinus nigra*)
 Jack Pine (*Pinus banksiana*)
 Lacebark Pine (*Pinus bungeana*)
 Chinese Pistache (*Pistacia chinensis*)
 Lombary (Black) Poplar (*Populus nigra* cv. Italica)
 White (Silver) Poplar (*Populus alba*)
 Japanese Raisan (*Hovenia dulcis*)
 Eastern Redcedar (*Juniperus virginiana*)
 "Canaertii" Juniper (Redcedar)
 Common Sassafras (*Sassafras albidum*)
 "Cumulus" Serviceberry (*A. laevis* cv. Cumulus)
 Carolina Silverbell (*Halesia caroliniana*)
 "Rosea" Carolina Silverbell
 Mountain Silverbell (*Halasia monticola*)
 "Rosea" Mountain Silverbell
 Western Soapberry (*Sapindus drummondii*)
 Sourwood (*Oxydendrum arboreum*)
 Siberian Spruce (*Picea omorika*)
 "Black Hills" White spruce (*Picea glance* ver. densata)
 Black Walnut (*Juglans nigra*)
 English Walnut (*Juglans regia*)
 (Babylon) Weeping Willow (*Salix babylonica*)
 "Lakeview" Ginkgo
 "Princeton Sentry" Ginkgo
 "Fairmount" Ginkgo
 Goldenlarch (*Pseudolarix kaempferi*)
 Common Hackberry (*Celtis occidentalis*)
 "Prairie Pride" Hackberry
 Jesso Hackberry (*Celtis jessoensis*)
 Bitternut Hickory (*Carya coridformis*)
 Mockernut Hickory (*Carya tomentosa*)
 Pignut Hickory (*Carya glabra*)
 Shagbrak Hickory (*Carya ovata*)
 Shellbark Hickory (*Carya laciniosa*)
 Common Honeylocust (*Gleditsia triacanthos*)
 "Shademaster" Honeylocust
 "Skyline" Honeylocust
 True Shade" Honeylocust
 Common Horsechestnut (*Aesculus hippocastanum*)
 "Baumannii" Horsechestnut
 American Linden (*Tilia americana*)
 "Redmond" Linden
 "Rosehill" Linden
 Littleleaf Linden (*Tilia cordata*)
 "Corinthian" Linden
 "Glenleven" Linden
 "Greenspire" Linden
 "Satin Shadow"
 "Sterling Silver" Linden
 Black Locust (*ribinia pseudoacacia*)
 Cucumber Magnolia (*Magnolia acuminata*)
 "Greencolumn" Maple (*A. nigrum* cv. Greencolumn)
 "Autumn Blaze" Maple (*A. freemanii* cv. Autumn Blaze)
 "Celebration" Maple
 "Scarlet Sentinel" Maple
 Red Maple (*Acer rubrum*)
 "Autumn Flame" Maple
 "October Glory" Maple
 "Red Sunset" Maple
 Silver Maple (*A. saccharinum*)
 Sugar Maple (*A. saccharum*)
 "Bonfire" Maple
 "Green Mountain" Maple
 "Legacy" Maple
 Planetree Maple (*A. pseudoplatamus*)
 Black Oak (*Quercus velutina*)
 Bur Oak (*Q. macrocarpa*)
 Chinkapin Oak (*Q. muehlenbergii*)
 Northern Red Oak (*Q. rubra*)
 Pin Oak (*Q. palustris*)
 Post Oak (*Q. Stellata*)
 Scarlet Oak (*Q. coccinea*)
 Shingle Oak (*Q. imbricaria*)
 Shumard Oak (*Q. shumardii*)
 Southern Red Oak (*Q. Falcata*)
 Swamp White Oak (*Q. bicolor*)
 Water Oak (*Q. nigra*)
 White Oak (*Q. alba*)
 Willow Oak (*Q. phellos*)
 Osage-orange (*Maclura pomifera*)
 "Park" Osage-orange
 Japanese Pagoda (*Sophora japonica*)
 Pecan (*Carya illoensis*)
 Common Persimmon (*Diospyros virginiana*)
 Eastern White Pine (*Pinus strobus*)
 Limber Pine (*Pinus flexilis*)
 Ponderosa Pine (*Pinus ponderosa*)
 Red Pine (*Pinus resinosa*)
 Scotch Pine (*Pinus sylvestris*)
 Sycamore (*Platanus occidentallis*)
 "Bloodgood" Planetree (*Platanus x acerifolia* cv. Bloodgood)
 "Columbia" Planetree (*Platanus x acerifolia* cv. Columbia)
 "Liberty" Planetree (*Platanus x acerifolia* cv. Liberty)

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Hybrid Poplar (*Populus x hybrid*)
Colorado Spruce (*Picea pungens*)
"Bakeri" Spruce
"Hoopsii" Spruce
"Koster" Spruce
Norway Spruce (*Picea abies*)
Sugarberry (*Celtis laevigata*)
"All Seasons" Sugarberry
American Sweetgum (*Liquidambar styraciflua*)
"Burgundy" Sweetgum
"Morane" Sweetgum
Black Willow (*Salix nigra*)
(Hankow) Corkscrew Willow (*Salix matsudana*)
American Yellowwood (*Cladrastis lutea*)
"Rosa" Yellowwood

"Green Vase" Zelkova
"Spring Grove" Zelkova
"Village Green" Zelkova

** Sp. = Species

Inclusion of any species or variety on this list does not indicate an endorsement by the city. (Gen. Ord. No. 1116, § 1(19-154), 9-13-93; G.O. 1476, 12-2-96)

Sec. 25-306. Spacing.

Spacing is permitted, as follows, according to the size categories on the approved list:

- (1) Small trees, a minimum of 25 feet between trees.
- (2) Medium trees, a minimum of 25 feet between trees.
- (3) Large trees, a minimum of 50 feet between trees.
(Gen. Ord. No. 1116, § 1(19-155), 9-13-93)

Sec. 25-307. Distance from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the tree species size classes listed in Section 25-305, and no trees may be planted between any curb and sidewalk in a space smaller than the following:

- (1) Small trees, 2 feet;
- (2) Medium trees, 3 feet; and
- (3) Large trees, 4 feet.
(Gen. Ord. No. 1116, § 1(19-156), 9-13-93)

Sec. 25-308. Distance from street corners.

No street tree shall be planted closer than 35 feet of any street corner or 20 feet from any alley corner, measured from the point of nearest intersecting curbs, curblines, or edge of pavement. No street tree shall be planted closer than ten feet of any fireplug.
(Gen. Ord. No. 1116, § 1(19-157), 9-13-93)

LARGE TREES

Green Ash (*F. pennsylvanica*)
"Marchall's" Ash
"Patmore" Ash
"Summit" Ash
"Urbanite" Ash
White Ash (*F. americana*)
"Autumn Applause" Ash
"Autumn Purple" Ash
"Rosehill" Ash
Baldcypress (*Taxodium distichum*)
American Beech (*Fagus grandifolia*)
European Beech (*F sylvatica*)
"Laciniata" Beech
"Purple" Beech (*F sylvatica cv. Purpurea*)
"Riversii" Beech
River Birch (*Betula nigra*)
"Heritage" Birch
Blackgum (*Nyssa sylvatica*)
Butternut (*Juglans cinera*)
Black Cherry (*Prunus serotina*)
Kentucky Coffeetree (*Gymnocladus dioicus*)
Dawn-Redwood (*Metasequoia glyptostroboides*)
Douglas-fir (*Pseudotsuga menziesii*)
Lacebark Elm (*Ulmus parvifolia*)
"Dynasty" Elm
"Pioneer" Elm (*Ulmus x Pioneer*)
"Homestead" Elm (*Ulmus X Homestead*)
"Regal" Elm (*Ulmus x Regal*)
Turkish filbert (*Corylus colurna*)
Nordmann Fir (*Abies nordmanniana*)
Concolor (White) Fir (*Abies concolor*)
Ginkgo (*Ginkgo biloba*)
"Rotundiloba" Sweetgum
Tuliptree (*Liriodendron turipifera*) (Yellow Poplar)
"Arnold" Tuliptree
Japanese Zelkova

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Sec. 25-309. Utilities.

No street trees other than those species listed as small trees in Section 25-305 may be planted under or within ten lateral feet of any overhead utility wire, transmission line or other utility line. No street trees other than those listed in Section 25-305 shall be planted over or within five lateral feet of any underground water line, sewer line, transmission line or other utility line.
(Gen. Ord. No. 1116, § 1(19-158), 9-13-93)

Sec. 25-310. Public tree care.

(a) The department of public works and transportation shall have the right to plant, prune, maintain and remove trees, within the right-of-way lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The parks and recreation department will have this same right in regard to the city's parks and parkways.

(b) The department of public works and transportation may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public or private improvements, or is infected with any injurious disease or parasite. This section does not prohibit the planting of street trees by adjacent property owners providing that the section and location of such trees is in accordance with Sections 25-305 through 25-309.

(c) No person shall, within the limits of the city, and within any park, parkway or boulevard, willfully and without right cut, take away, destroy, injure or mutilate, or attempt to cut, take away, destroy, injure or mutilate by cutting roots, or exposure, or by placing oil or any injurious chemical or substance on the ground around such trees, shrub or vine, or by tying animals to, or piling building materials about, or by attaching signs, supports or other devices to any fruit tree, ornamental or shade tree, shrub or vine standing, growing or being on premises in possession of another, including the city. In addition, no person shall cut down, lop, take or otherwise destroy any ornamental or shade tree, shrub, flowers, bulb or fruit standing or growing on any private or public ground or any street, sidewalk, park sidewalk,

promenade or park, parkway or boulevard in the city.
(Gen. Ord. No. 1116, § 1(19-159), 9-13-93)

Sec. 25-311. Construction around public trees.

Underground lines, with the exception of sewer and sewer inlets shall be tunneled under tree drip lines at a depth of at least 18 inches. Where trenching is required special precautions must be taken such as exposed roots must be cut cleanly and the trench refilled as soon as possible to minimize root drying.
(Gen. Ord. No. 1116, § 1(19-160), 9-13-93)

Sec. 25-312. Tree topping.

(a) It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees are to be trimmed using acceptable practices such as defined in Section 25-310. Trees severely damaged by storms or in the case of extreme emergencies where other pruning practices are impractical, may be topped.

(b) An alternate to topping would be to remove the tree. In the case of emergency tree topping or tree removal, a tree replacement should be planted at the determination of the city.
(Gen. Ord. No. 1116, § 1(19-161), 9-13-93)

Sec. 25-313. Pruning, corner clearance.

It shall be unlawful for any owner, occupant or agent of any house, building, lot or premises adjoining a street to permit shrubbery, trees, bushes, etc., to grow thereon, or in the parkway adjoining a public street along such premises, which obstruct, hide, interfere or prevent the observance of drivers of vehicles, of traffic control devices or other vehicles approaching such street or intersection. Those tree branches shall be pruned or removed so that such branches shall not obstruct the light from any street lamps or obstruct the view of any street intersection. Trees shall be pruned to provide a clear space of 14 feet above the surface of the street or alley or eight feet over a sidewalk. The owner, occupant or agent shall remove the same within 72 hours of notice by the city. The city shall have the right to

prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility off any traffic control device or sign. All pruning, of street trees, shall be done at the branch collar. No tree climbing spikes may be used to climb trees except for the removal of that street tree. When a tree is growing in violation of the space requirements of this division, the department of public works and transportation will be responsible for the corrective action.

(Gen. Ord. No. 1116, § 1(19-162), 9-13-93)

Sec. 25-314. Dead or diseased trees declared nuisance -- abatement.

Any dead or diseased tree located on private property within the city limits which interferes with the maintenance of the public health, safety or welfare is declared to be a nuisance. This shall include, but not be limited to, any tree constituting a hazard to life and property or harboring insects or disease which are a threat to other trees. Upon declaration as a nuisance, the city shall give written notice to the owner of the tree. The owner shall cause the abatement of the nuisance within 30 days of receipt of notice. Should the owner fail to comply with this section, the city may abate the nuisance and assess its costs incurred against the owner as a special tax assessment which may be placed as a lien against the property where the nuisance was abated.

(Gen. Ord. No. 1116, § 1(19-162.1), 9-13-93; G.O. 1332, 9-25-95)

Sec. 25-315. Removal of stumps.

All stumps of street and park trees shall be removed within six months of removal of the tree so that the top of the stump shall not project more than two inches above the surface of the ground unless a public safety hazard is determined for vehicular or pedestrian traffic. If the stump is determined to be a public safety hazard then it must be ground to below the surface of the ground and the resulting hole filled with soil. Naturally wooded areas which are inaccessible to equipment will be excluded at the discretion of the city.

(Gen. Ord. No. 1116, § 1(19-162.2), 9-13-93; G.O. 1477, 12-16-96)

Secs. 25-316--25-345. Reserved.

**ARTICLE VII. PERMITS FOR PARADES
AND SPECIAL EVENTS**

DIVISION 1. PARADES

Sec. 25-346. Definitions.

(a) *Parade*: Any parade, march, race, walk or procession, or any similar event, in or upon any street, park or other publicly owned property.

(b) *Parade permit*: A permit as required by this division.

(Code 1969, § 19-25; G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-347. Parade permit required.

No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the director of public works and transportation, or his or her designee.

(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-348. Parade permit application.

(a) Any person seeking a parade permit shall file an application with the director of public works and transportation, or his or her designee, on forms provided, not less than 30 days prior to the date on which the parade is to occur. A nonrefundable fee of \$25.00 shall be remitted with the application at the time of filing.

(b) The parade permit application shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct said 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 all authorized representatives of such organization;
- (3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
- (4) The date on which the parade is to occur;

- (5) The hours within which the parade is to occur;
- (6) The approximate number of persons who, and animals and vehicles which, will be participating in the parade, including the type of animals and a description of the vehicles;
- (7) A detailed drawing of the specific route to be traveled, including the starting point and the termination point;
- (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 area or areas;
- (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;
- (12) The name of the insurance company underwriting the parade and all applicable limits;
- (13) If the parade is designed to be held by, or on behalf of, or for any person other than the applicant, the applicant shall file with the director of public works and transportation, or his or her designee, a written communication from the person proposing to conduct the parade, authorizing the applicant to apply for the parade permit on his or her behalf; and
- (14) Any additional information which the director of public works and transportation, in conjunction with the director of community services,, the director of finance, the fire chief, the director of health, the director of parks and recreation, the police chief and the risk manager, shall find reasonably necessary to a fair determination as to whether a parade permit should be issued.

(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-349. Standards for issuance.

The director of public works and transportation, or his or her designee, shall issue a parade 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 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;
- (8) The applicant does not owe the city any money, including, but not limited to, amounts due for taxes, special assessments, license fees, permit fees, penalties, fines or utility service charges;

(9) The risk manager has determined the requisite level of insurance, dependent on the magnitude of the parade, and verified that the city has been named as an additional insured; and

(10) The applicant has fully complied with the requirements of Section 25-350 herein.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-350. Fee structure.

The director of public works and transportation shall consult with the director of community services, the fire chief, the director of health, the director of parks and recreation and the police chief and shall obtain from each cost estimates for any services that their departments may be requested or required by the applicant to provide in the attached special events checklist. All fees associated with such services shall be paid by the applicant at least ten days prior to the date on which the parade is to occur, or on the date the permit is issued, whichever is sooner.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-351. Notice of denial.

If the director of public works and transportation, or his or her designee, denies the parade permit application, he or she shall mail to the applicant, within ten business days following the date upon which the application was filed, a notice of said action.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-352. Appeal.

The applicant shall have the right to file a written appeal of the denial to the city manager within three business days of receiving the notice described in Section 25-351. The city manager shall act upon the appeal within five business days of its receipt.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-353. Notice of approval; required content of parade permit.

If the director of public works and transportation, or his or her designee, approves the parade permit application, a parade permit shall be mailed to the applicant within ten business days following the date upon which the

application was filed. Said parade permit shall contain 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 permit in miles or fractions thereof;
- (7) The insurance coverage required by the risk manager;
- (8) The total fees to be assessed; and
- (9) Such other information necessary to the enforcement of this division.

(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-354. Possession of parade permit.

The parade chairman shall carry the parade permit upon his or her person throughout the course of the parade.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-355. Compliance with law required.

The permittee hereunder shall comply with the terms and conditions of the parade permit, as well as all applicable laws and ordinances.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-356. Revocation of parade permit.

The director of public works and transportation, or his or her designee, shall have the authority to revoke a parade permit issued hereunder upon application of the standards set forth in Section 25-349.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-357. Obstruction, interference, etc.

Whenever the director of public works and transportation, or his or her designee, issues a parade permit under this division, no nonparticipant in such parade shall obstruct, or in any way interfere, with the order of such march, parade or procession by any means whatsoever. (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-358. Notice to city officials and staff.

Immediately upon the issuance of a parade permit, the director of public works and transportation, or his or her designee, shall send a copy of the same to:

- (1) The Mayor;
 - (2) The city manager;
 - (3) The director of finance;
 - (4) The fire chief;
 - (5) The director of health;
 - (6) The director of parks and recreation;
 - (7) The police chief;
 - (8) The director of public works and transportation; and
 - (9) The risk manager.
- (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-359. Exceptions.

This article shall not apply to:

- (1) Funeral or wedding processions;
 - (2) Students going to and from school classes or participating in education activities, providing such conduct is under the immediate direction and supervision of the proper school authorities; or
 - (3) A governmental agency acting within the scope of its functions.
- (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Cross reference(s)--Traffic regulations relating to processions, § 28-551.

Secs. 25-360--25-370. Reserved.

DIVISION 2. SPECIAL EVENTS

Sec. 25-371. Definitions.

(a) *Special event*: Any ceremony, show, exhibition, festival, pageant or gathering, or any similar event, excluding parades, in or upon any street, sidewalk, park or other publicly owned property.

(b) *Permit*: A permit as required by this division.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-372. Permit required.

No person shall engage in, participate in, aid, form or start any special event, as defined above, unless a permit shall have been obtained from the director of public works and transportation, or his or her designee.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-373. Permit application.

(a) any person seeking a permit shall file an application with the director of public works and transportation, or his or her designee, on forms provided, not less than 30 days prior to the date on which the special event is to occur. A nonrefundable fee of \$25.00 shall be remitted with the application at the time of filing.

(b) The permit application shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct the special event;
- (2) If the special event 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 all authorized representatives of such organization;
- (3) The name, address and telephone number of the person who will be the special event chairperson and who will be responsible for its conduct;
- (4) The date on which the special event is to occur;

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- (5) The hours within which the special event is to occur;
 - (6) The approximate number of persons who will be participating in, or present at, the special event;
 - (7) A detailed drawing of the specific area to be used;
 - (8) A statement as to whether the special event will occupy all, or only a portion, of the street, sidewalk, park or other publicly owned property;
 - (9) The name of the insurance company underwriting the special event and all applicable limits;
 - (10) If the special event is designed to be held by, or on behalf of, or for any person other than the applicant, the applicant shall file with the director of public works and transportation, or his or her designee, a written communication from the person proposing to conduct the special event, authorizing the applicant to apply for the permit on his or her behalf; and
 - (11) Any additional information which the director of public works and transportation, in conjunction with the director of community services, the director of finance, the fire chief, the director of health, the director of parks and recreation the police chief and the risk manager, shall find reasonably necessary to a fair determination as to whether a permit should be issued.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)
- (2) The conduct of the special event will not require the diversion of so great a number of police officers to properly police the area, and those contiguous thereto, as to prevent normal police protection to the city;
 - (3) The conduct of the special event 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 the area to be occupied, and those contiguous thereto;
 - (4) The concentration of persons will not unduly interfere with proper fire and police protection of, or ambulance service to, the surrounding area;
 - (5) The conduct of the special event will not interfere with the movement of firefighting equipment en route to a fire;
 - (6) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;
 - (7) The applicant does not owe the city any money, including, but not limited to, amounts due for taxes, special assessments, license fees, permit fees, penalties, fines or utility service charges;
 - (8) The risk manager has determined the requisite level of insurance, dependent on the magnitude of the special event, and verified that the city has been named as an additional insured;
 - (9) The applicant has notified all abutting property owners; and
 - (10) The applicant has fully complied with the requirements of Section 25-375 herein.
(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-374. Standards for issuance.

The director of public works and transportation, or his or her designee, 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 special event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location;

Sec. 25-375. Fee structure.

The director of public works and transportation shall consult with the director of community services, the fire chief, the director of health, the director of parks and recreation and the police chief and shall obtain from each cost estimates for any services that their departments

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may be requested or required by the applicant to provide in the attached special events checklist. Fees for such services shall be paid by the applicant at least ten days prior to the date on which the special event is to occur, or on the date the permit is issued, whichever is sooner. (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-376. Notice of denial.

If the director of public works and transportation, or his or her designee, denies the permit application, he or she shall mail to the applicant, within ten business days following the date upon which the application was filed, a notice of said action. (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-377. Appeal.

The applicant shall have the right to file a written appeal of the denial to the city manager within three business days of receiving the notice described in Section 25-376. The city manager shall act upon the appeal within five business days of its receipt. (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-378. Notice of approval; required content of permit.

If the director of public works and transportation, or his or her designee, approves the permit application, a permit shall be mailed to the applicant within ten business days following the date upon which the application was filed. Said permit shall contain the following information:

- (1) The portions of the streets, sidewalks, park or other publicly owned property that may be occupied;
- (2) The insurance coverage required by the risk manager;
- (3) The total fees to be assessed; and
- (4) Such other information necessary to the enforcement of this division.

(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-379. Possession of permit.

The special event chairman shall carry the permit upon his or her person throughout the course of the special event. (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-380. Compliance with law required.

The permittee hereunder shall comply with the terms and conditions of the permit, as well as all applicable laws and ordinances. (G.O. 1537, 7-28-97; G.O. 1736, 3-20-00)

Sec. 25-381. Revocation of permit.

The director of public works and transportation, or his or her designee, shall have the authority to revoke a permit issued hereunder upon application of the standards set forth in Section 25-374. (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-382. Obstruction, interference, etc.

Whenever the director of public works and transportation, or his or her designee, issues a permit under this division, no nonparticipant in the special event shall obstruct, or in any way interfere, with the same by any means whatsoever. (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-383. Notice to city officials and staff.

Immediately upon the issuance of a permit, the director of public works and transportation, or his or her designee, shall send a copy of the same to:

- (1) The mayor;
 - (2) The city manager;
 - (3) The director of finance;
 - (4) The fire chief;
 - (5) The director of health;
 - (6) The director of parks and recreation;
 - (7) The police chief;
 - (8) The director of public works and transportation; and
 - (9) The risk manager.
- (G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Sec. 25-384. Exceptions.

This article shall not apply to:

- (1) Funeral or wedding processions;
- (2) Students going to and from school classes or participating in education activities, providing such conduct is under the immediate direction and supervision of the proper school authorities; or
- (3) A governmental agency acting within the scope of its functions.

(G.O. 1537, 7-28-97; G.O. 1756, 3-20-00)

Cross reference(s)--Traffic regulations relating to processions, § 28-551.

ARTICLE VIII. ARTICLES IN PUBLIC WAYS.

Sec. 25-400. Depositing merchandise or offensive substances on public way – abatement.

(a) No person shall place or deposit any goods, wares, merchandise or similar articles in or upon any street, alley, sidewalk or footway, or cause or permit such to be done, except as permitted in Section 25-3. Such articles specifically include, but are not limited to dumpsters, debris, vending machines, and goods for sale.

(b) No owner, occupant or person in charge of any house, building, lot or premises shall leave, place or deposit or cause to be left, placed or deposited or suffer or allow to remain in or upon any sidewalk, curb or gutter in front of or alongside thereof any solid waste, except for that which has been placed in appropriate containers and set out for collection. Permits for certain items may be permissible in compliance with the standards of the department of public works and transportation.

(c) The director of public works and transportation, or his or her designee, may cause any item or article described under Subsections (a) or (b) above so placed to be removed therefrom provided that at least 24 hours' notice is provided. Any such notice shall be placed on or near the articles to be removed and shall be readily visible. However, the director of public

works and transportation, or his or her designee, may cause the immediate removal of any item or article if, in his or her judgement, such item or article constitutes an immediate threat to the health, safety and/or welfare of the public.

(d) It shall be a misdemeanor for any person to violate any section of this article.

(e) Any person who has been found guilty of violating this article shall be required to pay a minimum fine of \$25.00 for the first offense. Any person who has been found guilty of violating this article a second time, during the same 12 month period, shall pay a minimum fine of \$50.00. Any person who is found guilty of violating this article a third time, during the same 12 month period, shall be fined a minimum of \$150.00. Any person who is found guilty of violating this article four or more times during the same 12 month period shall be fined a minimum of \$300.00 for the fourth offense and each subsequent offense. If a person is charged and found guilty of more than one offense on the same day, then all such offenses on that day, for purposes of this article, shall be counted as one violation.

(G.O. 1802, 10-30-00; G.O. 1950, 6-9-03)

Sec. 25-401. Obstructions over sidewalks.

(a) Objects that limit the vertical passage space, protrude into the circulation route or reduce the clearance width of the public sidewalk shall not be permitted.

(b) The minimum, horizontal clearance width of all public sidewalks shall be maintained at five feet, except in instances where the existing sidewalk is a lesser width. In such an instance, no restrictions in the existing clearance width shall be made whatsoever. The vertical clearance height shall be 80 inches.

(G.O. 1950, 6-9-03)

Sec. 25-402. Storage, redemption, sale.

Any item or article removed pursuant to Section 25-400 above, having any apparent monetary value, beyond salvage value, shall be transported to a storage area or lot at the expense of the owner or person in custody thereof. It shall then be stored for a period of at least 30 days, and the person entitled to possession thereof may redeem the property by payment to the city of the

actual cost of its removal and a reasonable storage and administrative processing fee in the amount of \$75.00. If any item is unredeemed after the expiration of the 30 day period, the director of public works and transportation, or his or her designee, may sell it to the highest bidder or, if it has no sale value, may otherwise dispose of it. Any money received from the disposal of any item shall be applied to the costs charged to the owner or person in charge thereof.

(1) *Notice of sale.* Prior to the sale of any such property obtained pursuant to Subsections (a) or (b) of Section 25-400, the director of public works and transportation, or his or her designee, shall cause to be posted in city hall, at the place of storage and in at least one other public place in the city, a notice of sale stating:

- a. That the city is selling abandoned property;
- b. The color, make, year, and serial number, if available, and any other information necessary for an accurate identification of the property;
- c. the terms of the sale; and
- d. the date, time and place of the sale.

(2) *Publication.* Notice of any such sale shall be published at least once, seven days prior to the sale, in a newspaper published in the city.

(G.O. 1802, 10-30-00; G.O. 1950, 6-9-03)

Sec. 25-403. Collection of abatement costs.

When the city expends any funds in the removal of any article or item pursuant to Section 25-400, the director of financial services, or his or her designee, shall notify, by certified mail, the owner and occupant, if any, of the property against which the costs were incurred of the same. Both the owner and occupant, if any, shall be and remain jointly and severally liable for any such costs, including all applicable administrative processing fees. The director of public works and transportation shall certify the abatement cost to the director of financial services, together with the description of the property. The cost of administratively processing the abatement to the director of financial services shall be \$75.00 per abatement action. The person(s) notified shall have 30 days from the mailing of this notice

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within which to pay the costs of the abatement to the director of financial services. If the person(s) so notified fails to pay the costs of the abatement within 30 days, the director of finance shall immediately, upon the receipt of this information, enter an assessment in the appropriate books of the city to be kept for that purpose, and upon the entry of this assessment a lien will attach to the property. The assessment shall be deemed a personal debt against the property owner until paid.

(G.O. 1802, 10-30-00; G.O. 1950, 6-9-03; G.O. 2011, 3-15-04)

Sec. 25-404. Appeal of assessment.

Any person aggrieved by an assessment levied pursuant to Section 25-403 shall have the right to appeal as established in Chapter 2, Article XIII of this code. Any such appeal shall operate as a stay to the imposition of any lien until the matter has been finally determined.

(G.O. 1802, 10-30-00; G.O. 1901, 10-14-02; G.O. 1950, 6-9-03)