

City Ordinances

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.010 Filing petition with council.

Whenever a new street, or an alteration, widening, change of grade, discontinuance or location anew of an existing street is wanted in the city, application therefore shall be made by petition in writing to the city council signed by not less than six (6) inhabitants of the city or by the city planning director or the city engineer. (Prior code §22-17)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.020 Temporary repairs of private ways.

Upon petition in writing to the city council signed by more than fifty percent (50%) of the abutters, determined by lineal footage, on a private way, for certain repairs delineated in this chapter, the mayor and city council shall act first on the petition, and if they deem it best that a view or hearing shall be had thereon, they shall refer it immediately to the board of public works.

A. The type and extent of repairs shall be limited to, in whole or in part, filling of holes in the subsurface of such ways and/or repairs to the surface; said repairs shall be with construction materials as per the current accepted maintenance standards of the city department of public works and as approved by the director of the department of public works. Minor repairs, of an expedient nature, may be made at the discretion of the director of the department of public works, withstanding any provisions of this section.

B. Drainage may be included at the discretion of the director of the department of public works, and any city ordinance regarding betterment assessments for same shall remain in force if applicable.

C. There is no limitation on the length or shortness of time a private way may have been open to public use to qualify under this section.

D. The city shall not be liable on account of damages caused by such repairs to any greater extent than the city would be liable for such damages in the case of a public way.

E. As soon as may be after any such petition has been so referred to the board of public works, such board shall view the premises, and hear all the parties interested therein, having first given notice of the view and hearing to all abutting owners in the manner prescribed in Section 10.04.040.

F. The board of public works shall thereafter report to the city council whether in its opinion the repairs are required by public necessity. The board shall include in said report a statement whether in the opinion of the board betterments should be assessed for such repairs upon property legally subject to such assessment, and thereafter to notify the city council of the completion of any such work upon which the assessments of betterments have been recommended.

G. The city council shall take such action upon the report, and the subject matter therein contained, as they shall deem best.

H. Such repairs shall not be undertaken until the city council shall declare that the repairs are required by public necessity.

I. The city council shall assess betterments upon the owners of estates which derive particular benefit or advantage from the making of such repairs on any such private way. Such assessment, if any, shall be in the aggregate, one-half (1/2) of the total cost of such repairs and, in the case of each such estate, in proportion to the frontage thereof on such way. Except as otherwise provided, the provisions of Chapter 80 relating to public, improvements and assessments therefore shall apply to repairs to private ways ordered to be made under this section; provided, that no assessment amounting to less than twenty-five dollars (\$25) shall be apportioned and no assessment may be apportioned into more than five (5) portions. Cash deposits shall not be required for such repairs. (Ord. 1984 Ch. 2 (part); prior code §22-17 (a))

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.030 Petition to be referred to board of public works.

The city council shall first act on the petition by referring it to the board of public works for hearing and sending a copy to the planning board. Ord. 1984 Ch. 2 (part); prior code §22-18)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.040 Board to view premises and hear parties after notice.

A. As soon as may be after any petition mentioned in Sections 10.04.010 and 10.04.030 has been referred to the board of public works by the city council, such board shall view the premises, and hear all the parties interested therein, having first given notice of the view and hearing by mailing notices to all known interested parties, postage prepaid, to their respective addresses of record, as well as posting notices in two public places and publishing in a newspaper of general circulation, all at least seven (7) days prior to such hearing.

B. If an interested party does not have an address known to the board then such notice may be left with his tenant or agent, or shall be posted on or near the premises which would be affected by the petition.

C. All notices mentioned in this section shall contain a copy of the petition, or the substance thereof, and the order of the board thereon, and such view and hearing may be adjourned from time to time, and from place to place, at the discretion of such board.

D. For the purposes of this section, "interested party" means the owner or owners of land abutting upon such existing or proposed street, or improvement and the owner or owners of land upon which such new street or improvement is proposed to be laid. (Ord. 1984 Ch. 2 (part); prior code §22-19)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.050 Board to report to council after viewing premises and hearing parties.

After viewing the premises and hearing all parties who may desire to be heard, as provided for in Section 10.04.040, the board of public works shall report to the city council whether in their opinion common convenience and necessity require the street to be laid out, altered, widened, discontinued, located anew or the grade thereof changed. (Prior code §22-20)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.060 Board to prepare plan and description if it approves.

If the board of public works decides in favor, in whole or in part, of such laying out, altering, widening, changing of grade, locating anew or discontinuing of a street or way as hereinbefore provided in this chapter, they shall, as soon as may be, cause to be prepared a plan and description of such proposed laying out, altering, widening, changing grade, locating anew or discontinuance. (Prior code §22-21)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.070 Plans to be prepared at written direction of board of public works.

Any plan for the laying out, altering, widening, changing of grade, locating anew or discontinuing of a street, sidewalk, or way, properly before the board of public works under Sections 10.04.030 and 10.04.040, shall be prepared at the written direction of the board of public works. (Prior code §22-21(a))

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.080 Board to estimate damages, costs and betterments.

A. Except in case of discontinuance, if the board of public works is in favor of the proposal, it shall estimate the probable expense of fitting the way for travel, and at the same time, if, in the opinion of the board, damages would be sustained by, or benefit conferred on any person in his property by reason of such laying out, altering, widening, changing of grade, locating anew or discontinuing of any street, it shall estimate the amount of damage or benefit to each owner.

B. Damages for all land and buildings are to be estimated with reference to their value before the laying out, altering, widening, locating anew or discontinuing of the way, and such estimate shall not include any increased value occasioned merely by such laying out, altering, widening, changing of grade, locating anew or discontinuing.

C. All such estimates shall be submitted with the board's report to the city council.

D. If the board's report contains a recommendation that betterments be assessed, a schedule of the estimated assessments shall be included in the report. (Ord. 1984 Ch. 2 (part); prior code §22-22)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04

Construction And Maintenance Of Streets And Sidewalks
10.04.090 Hearing on damages.

Before proceeding to estimate the damages as aforesaid, the board of public works shall give all interested parties an opportunity to be heard thereon. If a separate hearing on damages is to be held then notice shall be given to all interested parties in the manner provided in Section 10.04.040. The notice of the hearing on damages need not contain a copy of the petition or abstract thereof. (Ord. 1984 Ch. 2 (part); prior code §22-23)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.100 Hearing before city council.

A. At any time after notice of a hearing has been given by the board of public works under Section 10.04.040, and before final action by the city council upon the board's report, any party interested may apply in writing to the city council, requesting a hearing before the city council upon anything contained in the report.

B. The city council shall hear the applicant upon giving the board of public works, the director of the department of public works and the applicant due notice of the time and place of said hearing.

C. Any hearing conducted under this section shall be open to all interested parties who appear and desire to be heard. (Ord. 1984 Ch. 2 (part); prior code §22-24)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.110 Attendance of board members at hearing where report under discussion.

Any member of the board of public works may attend any meeting of the mayor or city council while a report of the board is under discussion, and may make any statements regarding the report as the board member thinks fit. (Prior code §22-25)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.120 Director of department of public works to notify board of construction--Board to act on assessments.

The director of the department of public works shall notify the board of public works that the way has been laid out and constructed. The board of public works shall then act upon the assessment of betterment and report thereon to the city council. (Ord. 1984 Ch. 2 (part); prior code §22-26)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04

Construction And Maintenance Of Streets And Sidewalks
10.04.130 Action by mayor and city council on report.

The city council shall take such action as they shall deem best, upon the report, and the subject matter therein contained. (Ord. 1984 Ch. 2 (part); prior code §22-27)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.140 Board of public works to state in report whether assessments should be made--Notice as to completion of work.

It shall be the duty of the board of public works in reporting on all matters relating to the laying out, altering, widening, discontinuing, change of grade or repairing the streets of the city, in accordance with the provisions of Section 4, Chapter 334, Acts of 1872, establishing such board, to state in such report whether in the opinion of such board betterments should be assessed upon property legally subject to such assessment, and thereafter to notify the city council of the completion of any such work upon which the assessments of betterments have been recommended. (Prior code §22-28)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.150 Lists submitted with recommendations as to assessments by board of public works.

The board of public works shall, in submitting reports recommending assessments of betterments, submit with such recommendation lists of such assessments as in their opinion should be made, together with information as to what agreements may be made by the city council for the assumption of betterments under the laws of the Commonwealth.

(Prior code §22-29)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.160 Width of streets--Exceptions.

All private streets or ways hereafter proposed for public acceptance shall have a width of fifty (50) feet or more, excepting, however, any such private street or way, where, in the opinion of the board of public works, common convenience and necessity will be as well served by a public way less than fifty (50) feet in width. (Prior code §22-30)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.170 Report to be made by board before construction.

No way shall be laid out, established or accepted as a public way in the city unless the location, direction and grade of such way shall have been included in the report of the board of public works. (Prior code §22-31)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks

10.04.180 Sewers and drains to be laid out before establishment of way.

- A. No way shall hereafter be laid out, established or accepted as a public way in the city until any sewer and drain required therein are constructed in accordance with the provisions of Chapter 11.08.
 - B. A copy of the council order laying out a new way shall be sent to the board of water commissioners by the city clerk. (Prior code §22-32)
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Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks

10.04.190 Avenues--Lanes and alleys.

- A. The name avenue shall be given only to the longer and more important streets of the city.
 - B. All narrow passageways less than twenty-five (25) feet in width shall be called lanes or alleys according to fitness; the longer and more important of them shall be called lanes, and the shorter and less dignified ones shall be called alleys.
 - C. All blind or dead-end streets or passageways shall be known as places or courts. (Prior code §22-33)
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Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks

10.04.200 Reference of laying out, establishing or altering sidewalks to board of public works.

No sidewalk, with or without curbing, shall be laid out, established or altered unless the question of laying out, establishing or altering shall have been first referred to the board of public works by the city council. (Prior code §22-34)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks

10.04.210 Notice of hearing as to sidewalks to be given by board.

- A. The board of public works shall, as soon as may be, cause a notice of the time and place of the hearing of all parties interested therein to be given to the several owners of land in front of which such sidewalk is proposed to be laid out, established or altered as provided in Section 10.04.040.

B. Such notice shall be served seven (7) days at least before the time of such hearing upon each owner either by delivering to him or to his authorized agent an attested copy thereof or by leaving such copy at his last and usual place of abode in the city; provided, however, that if any owner is not found by such officer in the city, or is known to such officer to have any last and usual place of abode or authorized agent therein, then and in such case, such officer shall post such copy on or near the land in front of which such sidewalk is proposed to be laid out, established or altered and shall also notify such owner by registered mail sent to his last known business address at least seven (7) days before the time of such hearing, and such notification shall be a sufficient service upon such last described owner; and such officer shall, before the time appointed for the hearing, make a return on the original notice of his doings thereon, and deliver the same to the board of public works who shall transmit the same to the city council with their report. (Ord. 1984 Ch. 2 (part); prior code §22-35)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.220 Hearing and view as to sidewalk--Report to council.

At the time and place appointed as mentioned in this chapter, the board of public works shall meet and hear all persons and parties interested claiming to be heard, and if deemed necessary or requested thereto, shall proceed to view the premises, and they shall thereafter report to the city council whether common convenience and necessity require that a sidewalk be laid out, established or altered. (Prior code §22-36)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.230 Plans and profiles as to sidewalks.

If the board of public works report in favor thereof, in whole or in part, they shall cause all necessary surveys, plans and profiles to be made, indicating the height, width and grade of the proposed sidewalk, and the materials of which it shall be constructed. (Prior code §22-37)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.240 Report to show time of completion.

If the board of public works deems it proper that the construction, as well as the laying out of the proposed sidewalk, should be ordered, its report shall also state the time within which the same shall be completed, which time shall be at least thirty (30) days. (Prior code §22-38)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.250 Order for construction of sidewalks--Notice to owner.

When the city council has ordered a sidewalk to be constructed and completed within a certain time, notice thereof shall be given by the city clerk to the owners of estates abutting land on which such sidewalk is proposed to be constructed, and such notice shall be served, returned, filed and preserved in the office of the city clerk for future reference. However, the city clerk shall not be required to give notice to the owners of estates abutting land on which said sidewalk is proposed to be constructed when there are no city costs or assessments and wherein all costs will be paid by the federal or state government. (Prior code §22-39) (as amended 03/22/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.260 Construction of sidewalks by city when work not done by owner.

Whenever any sidewalk, or any portion thereof, which has been laid out, established and ordered by the city council to be constructed, after notice to the owners of real estate as is provided in the Section 10.04.250, is not completed within the time fixed in the order mentioned in this chapter, the director of public works shall, within six (6) years from the date of the order, cause such sidewalk to be constructed according to the original order. (Prior code §22-40)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.270 Assessment for sidewalks--Lien.

A. A reasonable amount, not exceeding one-half (1/2) the cost of construction, shall be assessed by the city council upon the abutting estate; and the sum so assessed shall be a lien upon said land for the period prescribed by General Laws, Chapter 80, as amended.

B. The city clerk shall certify the assessment to the city collector, who shall forthwith demand payment thereof, and proceed to collect the same as provided for the collection of taxes or other claims due the city. (Prior code §22-41)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.280 Removing public shade trees to widen a highway.

No public shade tree shall be removed for the purpose of widening a highway until notice of said removal has first been given as prescribed by General Laws, Chapter 82, and hearing held thereon by the board of public works. (Prior code §22-42)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.290 Altering or abolishing tree belts.

A. No tree belt shall be altered or abolished unless the question of altering or abolishing has first been referred to the board of public works by the mayor or city council.

B. The board shall, as soon as may be, cause a notice of the time and place of hearing all interested persons to be given as prescribed by General Laws, Chapter 82.

C. A copy of said notice shall also be sent to the conservation commissioner and to the city forester.

D. After hearing all interested parties, the board shall report thereon to the mayor or city council.

(Prior code §22-42(a))

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.300 Maintenance of tree belts.

The tenant or occupant of any single parcel of real estate which contains only one rental or dwelling unit, and in case there is more than one rental or dwelling unit on a parcel, or where there is no tenant or occupant, the owner or person having the care of any real estate abutting on any public or private way within the city where there is a tree belt, shall keep the treebelt free and clear of all litter, debris, noxious weeds as defined in Section 7.16.170, and brush, and shall maintain the tree belt in a clean and sanitary manner. (Ord. 1985 Ch. 2: prior code §22-42(b))

Title 10
Streets, Sidewalks And Public Places
Chapter 10.04
Construction And Maintenance Of Streets And Sidewalks
10.04.310 Matters that may be referred to board of public works.

The city council may refer to the board of public works any matter relating to streets, bridges, sidewalks, sewers, drains, or other public works, parks, squares, and public places, including the estimate of damages and betterments, and thereupon it shall become the duty of such board to consider the matter so referred and report thereon: (Prior code §22-43)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires
10.08.010 Authority to grant right to construct and maintain conduits, cables and wires--Erection of poles.

A. The city council may authorize any utility company to construct and maintain underground conduits, cables and wires for the conduct of its business in such of the streets of the city or in such of the public properties of the city as the city council may deem advisable, and to construct therein and maintain the necessary manholes and house connections; also to erect and maintain distributing poles at the termini of such conduits and at suitable distributing points.

B. Upon authorization of any such construction on vegetated public properties, the city council shall notify, by copy of such authorization, the city forester who shall advise and give supervision to such construction and who shall cause to have the disturbed public properties restored by the utility company causing such

disturbance.

C. All of the above shall be done in accordance with the regulations provided in this chapter and subject to such ordinances in addition to or in amendment of this chapter as may hereafter be passed. (Prior code §17-1)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires
10.08.020 Approval of conduits and poles.

A. The conduits shall be of suitable kind and construction such as the city council shall approve, and the work shall be done in a thorough manner, and to the approval of the director of public works and the city forester as provided in Section 10.08.010.

B. The distributing and other poles shall be of such height and other dimensions and of such form and material, and so located as to be satisfactory to the city council and shall be subject to its approval or the approval of any person whom it may select. {Prior code §17-2}

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires
10.08.030 Restoration of opened street.

When an opening is made in a street for the purpose of laying, repairing or removing wires or conduits or erecting or removing distributing or other poles, the portion of the street so opened shall be restored by such company to a condition satisfactory to the director of public works, and shall be kept by such company in such condition for one (1) year thereafter, and if it is not so restored and maintained by such company such director may cause the same to be done at the expense of such company. (Prior code §17-3)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires
10.08.040 Interference with other work.

Any such company in laying, repairing or removing its wires or conduits shall not disturb or in any way interfere with the wires of any other utility company or any gas or water pipes or sewers or pipes therewith connected. (Prior code §17-4)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires
10.08.050 Change of location when required by public works.

In case the city finds it necessary to construct or enlarge sewers or other public works in streets or areas where conduits are laid, which shall require changing the location of such conduits, such changing shall be at the expense of the company owning the conduits, which shall forthwith carry out the same. (Prior code §17-5)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires

10.08.060 Duration of permit--Continuance of work with diligence.

Such company shall commence the work contemplated by any authority granted to it within six (6) months from the granting of the authority, unless restrained by process of law, and shall continue the work with reasonable diligence until suitable conduits have been laid in the location designated in its application for authority, and duly granted by the mayor and city council. (Prior code §17-6)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires

10.08.070 Permit to remove conduits.

No such company shall remove its conduits unless permitted to do so by the city council. (Prior code §17-7)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires

10.08.080 Order to remove conduits.

Such company shall remove its conduits to other suitable locations whenever ordered to do so by the city council.

(Prior code §17-8)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires

10.08.090 Conditions of permit to disturb street surface.

No permit shall be granted, or if granted shall be valid, to disturb the surface of a street for any of the purposes mentioned in this chapter until such company has executed an agreement in a form satisfactory to and approved by the mayor, providing:

A. Space for City Wires--Access for Handling. That in every underground conduit constructed by such company sufficient and necessary space shall be reserved and maintained, free of charge, for the use of the fire, police and other signal wires belonging to the city and used exclusively for municipal purposes, and that the fire and police departments by their electrical superintendents shall be allowed access to

such conduits at all times; and that such departments shall be allowed facilities and privileges in putting in or taking out wires equal in all respects to those of such telephone company;

B. Indemnity Against Damages. That such company will indemnify and save harmless the city against all damages, costs and expenses whatsoever to which the city may be subjected in consequence of the acts or neglect of such company, its agents or servants, or in any manner arising from the rights and privileges granted it by the city;

C. Bond. In addition to the agreement mentioned in this chapter, such company shall, before a street is disturbed for the laying of its wires or conduits, execute a bond with surety or sureties, to be approved in writing by the mayor, or in a penal sum of not less than ten thousand dollars (\$10,000), conditioned to fulfill all its agreements with the city and its duties under this chapter, and a new bond of like import may at any time be required by the mayor and council which new bond shall be a strengthening bond unless the surety or sureties on former bonds are expressly released from further liability by vote of the city council;

D. Installation and Removal of Wires. That the company will, as soon as a conduit is constructed, remove thereto such wires as it is intended to accommodate, and remove all wires from any conduit the license to use which has been revoked by the mayor and council;

E. Compliance with Orders. That the company will at once comply with any changes in their conduits, manholes or poles that the mayor and council may, after hearing duly appointed, order. (Prior code §17-9)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.08
Poles And Wires

10.08.100 Revocation of authority--Substitute location.

Any authority granted by the mayor and city council may, after notice and hearing, be revoked and altered at any time without liability on the part of the city therefore; but in case any location in any street is revoked, a substitute location in some other street that will in the opinion of the mayor and city council accommodate the service shall be granted. (Prior code §17-10)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.12
Parks And Trees

10.12.010 Shade trees in highways.

The board of park commissioners are charged with the care of all shade trees within the limits of the highways in the city and are designated to have charge of such shade trees under the provisions of Chapter 87 of the General Laws. (Prior code §14-1)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.12
Parks And Trees

10.12.020 Wires in contact with trees.

A. No electric wires, cables, guys, poles, crossarms, brackets, insulators or other wires or fixtures shall be attached to or come in contact with any tree standing for use or ornament in any public street, court or other public place in the city, without the consent of the board of park commissioners.

B. All wires, cables, guys and wire fixtures now attached to or in contact with such trees without such consent shall be removed by the inspector of wires; the cost of such removal to be charged to the company owning such wires, cables or fixtures. (Prior code §14-2)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.12
Parks And Trees
10.12.030 Cutting trees.

No person unless authorized by or according to statute or by some other provision of this code, shall cut down, remove, injure or destroy any fruit, shade or other tree, growing or being in any public street, common or other public ground in the city. (Prior code §14-3)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.010 General prohibition against obstructions.

No person shall place or cause to be placed in any public street, or on any sidewalk, footwalk or crosswalk in the city, any article or thing whatsoever, so as to interfere with the convenient use of the same by any person traveling thereon. (Prior code §22-44)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.015 Sidewalk sales.

A. No person or business shall conduct a "sidewalk sale" of merchandise on any public sidewalk or public land extending from their property line to a public street unless they first obtain from the director of public works a written license stating the area of public space that may be occupied, and the time of such occupancy, and such other reasonable provisions as may be warranted, in accordance with the restrictions defined in subsection B of this section and factors relative to the residential or commercial nature of the area. The license applicant further must file with the director of public works a written agreement under seal, approved by the director of public works, to comply strictly with the terms of the license and indemnify the city from all loss, cost or expense that the city may suffer by reason of such occupancy.

B. Such sidewalk occupancy permits for the sale of merchandise shall be subject to the following restrictions:

1. The applicant must demonstrate to the satisfaction of the director of public works that there is enough land between his property line and the public way so as to permit the display of merchandise while maintaining an open unobstructed sidewalk passage of at least forty-eight inches (48") in width for the use of the general public, so as not to interfere with the convenient use of the sidewalk by any person traveling thereon. This forty-eight-inch (48") wide clearance must be maintained continuously while the

"side-walk sale" is in progress.

2. Licenses for such sales shall be granted no more than twice for any merchant in any calendar year. Each license shall be granted for a period of time up to, but not to exceed, seven consecutive days.

3. No merchandise or other material shall be outside for exhibition or sale unless the seller or a representative of the seller is present.

C. The fee for the issuance of a license granted under the provision of this section shall be twenty dollars (\$20). (Ord. 1984 Ch. 7: prior code §22-44(part))

Title 10

Streets, Sidewalks And Public Places

Chapter 10.16

Street And Sidewalk Use Regulations

10.16.030 Fences around excavations and obstructions--Lights--Repairing streets.

A. Whenever any street or sidewalk or other public place in the city shall, under any license granted as provided in Section 10.16.020, be dug up, obstructed, encumbered or otherwise thereby rendered unsafe or inconvenient for travel, the person so licensed shall put, and at all times keep up, a suitable railing or fence around the section of the street or other public place so obstructed, so long as the same shall be or remain unsafe or inconvenient as mentioned in this chapter, and shall also keep one (1) or more lighted lanterns fixed to such fence or fixed in some other proper manner, every night from one-half (1/2) an hour after sunset to one-half (1/2) hour before sunrise, so long as such railing or fence is kept standing or obstruction remain.

B. He shall also, within such reasonable time as the director of public works directs, amend and repair such street, sidewalk or public place, to the acceptance of the director of public works. (Prior code §22-46)

Title 10

Streets, Sidewalks And Public Places

Chapter 10.16

Street And Sidewalk Use Regulations

10.16.040 Scattering nails, tacks or glass.

A. No person shall put, place, throw or scatter, or cause to be put, placed, thrown or scattered in any public or private way, parkway or park road, lane or alley, or other public place in the city, or adjacent thereto, any nails, tacks, broken glass, glass containers, tin cans or other articles or substances which may in any way be liable to puncture the tire of any vehicle, or which may in any way impede or obstruct the passage of any vehicle over such public or private way, parkway or park road, lane or alley, or other public place in the city, or adjacent thereto.

B. If, as a result of the operation of a motor vehicle on any public or private way, parkway or park road, lane or alley, or other public place in the city, or adjacent thereto, broken glass is thrown on the surface of the way, road, alley or other public place in the city, or adjacent thereto, the person operating such motor vehicle causing the same shall immediately remove such glass from the surface of such way, road, alley or place. (Prior code §22-47)

Title 10

Streets, Sidewalks And Public Places

Chapter 10.16

Street And Sidewalk Use Regulations

10.16.050 Wood on sidewalk.

No person shall saw any wood or pile the same on the sidewalk of any street in the city. (Prior code §22-48)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.060 Fuel or coal on sidewalks.

No person shall suffer his firewood, coal or other fuel to remain unnecessarily on any sidewalk, or in any street in the principally inhabited parts of the city, overnight or after twilight in the evening, and in case it must if necessity so remain after twilight or through the night, the owner shall place and keep a sufficient light over or near the same through the night, to prevent injury therefrom. (Prior code §22-49)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.070 Obstructing streets and vehicles.

No person shall stand with or permit any vehicle under his care or control to stand across any public street in such a manner as to obstruct the travel over the same, and no person shall stop with any vehicle in any public street at the side of or so near to another vehicle as to obstruct public travel, and no person shall stop with any vehicle upon or across any crosswalk in any street in the city. (Prior code §22-50)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.080 Vehicles on sidewalks.

No person shall drive, wheel, draw or push any cart, wheelbarrow or other vehicle of burden or of pleasure, upon or along any sidewalk in the city, except for the purpose of crossing such sidewalk to go to or out of some adjoining enclosure, and except vehicles not exceeding two thousand-five hundred (2,500) pounds in weight used thereon for snow removal purposes only; provided, that this section shall not apply to baby carriages and go-carts, or to any of the small carts, kiddy cars, tricycles, so-called "Irish Mails," scooters, roller skates or other similar means of amusement or exercise operated by hand or foot and in common use by young children, and; provided further, that the use of such things for play purposes upon the sidewalks shall be limited to children under twelve (12) years of age, and; provided further, that none of such things shall be used for the purpose of coasting down inclined sidewalks in thickly populated parts of the city.

(Prior code §22-51)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations

10.16.085 Motor vehicle repairs in streets and sidewalks.

No person shall perform maintenance, mechanical or other repairs, except those of an emergency nature which can be accomplished in a limited time span such as the changing of a flat tire, on any motor vehicle in any public street, or on any sidewalk, footwalk, crosswalk, treebelt, terrace or publicly owned and/or operated parking lot or parking facility in the City. (added 12/08/1988)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations

10.16.090 Vehicles prohibited from driving over curbing.

No person shall intentionally drive, wheel, draw or push any motor vehicle upon or over the curbing of any public way in the city unless the curbing at that point is designed to permit the passage of vehicles over it without having first obtained a permit from the director of public works. (Prior code §22-52)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations

10.16.100 Use of certain wheeled vehicles.

A. No persons, except invalids or lame or otherwise disabled persons, shall put in motion, or use in motion, any wheeled vehicle in, along or upon any of the streets or portions of streets of the city unless such vehicle shall be propelled by some beast attached thereto, or drawn or pushed by some person on foot.

B. This section shall not apply to the use of bicycles, tricycles, motorcycles or automobiles. (Prior code §22-53)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations

10.16.110 Parades and motorcades.

A. Definitions. For purposes of this section, the following words shall have the following meanings:

1. "Chief of police" means the chief of police of the city or the board or officers having control of the police or persons authorized by them.
2. "Parade" means any march or procession consisting of people, animals or vehicles, or combinations thereof, except funeral processions, upon any public street, sidewalk, or alley, which does not comply with normal and usual traffic regulations or controls.
3. "Motorcade" means an organized procession containing twenty-five (25) or more vehicles, except funeral processions, upon any public street, sidewalk, or alley.

B. Permits. It is unlawful for any person to conduct a parade or motorcade in or upon any public street, sidewalk, or alley in the city or to knowingly participate in any parade or motorcade unless and until a permit to conduct such parade or motorcade has been obtained from the chief of police.

C. Application for Permit. Any person who wants to conduct a parade or motorcade shall apply to the chief of police for a permit at least ninety-six (96) hours in advance of the date of the proposed parade or motorcade. The ninety-six (96) hour notice period shall be waived unless the chief of police finds that, because of the size or nature of the parade, it will be prohibitively difficult in the time remaining to make the arrangements necessary to prevent serious disruption to public safety or to the flow of traffic. In which case, the chief shall state in writing his finding and the reason therefore, and communicate the same promptly to the applicant, by personal service if time allows, otherwise by telephone or other means. The application for such permit shall be made in writing on a form approved by the chief of police. In order that adequate arrangements may be made for the proper policing of the parade or motorcade, the application shall contain the following information:

1. The name of the applicant, the sponsoring organization, the motorcade chairman, and the addresses and telephone numbers of each;
2. The purpose of the parade or motorcade, the date when it is proposed to be conducted, the location of the assembly area, the location of the disbanding area, the route to be traveled and approximate time when the parade or motorcade will assemble, start, and terminate;
3. A description of the individual floats, marching units, vehicle bands, including a description of any sound amplification equipment to be used;
4. Such other information as the chief of police may deem reasonably necessary.

D. Contents of Permit. In each permit, the chief of police shall specify:

1. The assembly area and time thereof;
2. The starting time;
3. The minimum and maximum speeds;
4. The route of the parade or motorcade;
5. What portions of streets to be traveled may be occupied by such parade or motorcade;
6. The maximum number of platoons, or units, and the maximum and minimum intervals of space to be maintained between the units of such parade or motorcade;
7. The maximum length of such parade or motorcade in miles or fractions thereof;
8. The disbanding area, and disbanding time;
9. The number of persons required to monitor the parade or motorcade;
10. The materials used in the construction of floats used in any parade shall be of fire-retardant materials and shall be subject to such requirements concerning fire safety as may be determined by the fire chief;
12. That permittee advise all participants in the parade or motorcade either orally or by written notice, of the terms and conditions of the permit prior to the commencement of such parade or motorcade;
13. That the amplification of sound permitted to be emitted from sound trucks or bull horns, be fixed and not variable;

14. That the parade or motorcade continue to move at a fixed rate of speed and that any willful delay or willful stopping of said parade or motorcade, except when reasonably required for the safe and orderly conduct of the parade or motorcade, shall constitute a violation of their permit; and

15. Such other requirements as are found by the chief of police to be reasonably necessary for the protection of persons or property.

All conditions of the permit shall be complied with, so far as reasonably practicable and shall be the same as presented in the application, except as set forth in subsection F of this section.

E. Officials to be Notified. Immediately upon the granting of a permit for a parade or motorcade, the chief of police shall send a copy thereof to the following:

1. The mayor;
2. The fire chief;
3. The public works director.

F. Denial or Revocation of Permit. A permit, if timely sought, shall be granted unless:

1. The time, route and size of the parade or motorcade will disrupt to an unreasonable extent, the movement of other traffic;
2. The parade or motorcade is of a size or nature that requires the diversion of so great a number of police officers of the city to properly police the line of movement and the area contiguous thereto, that allowing the parade or motorcade would deny reasonable police protection to the city.
3. Such parade or motorcade will interfere with another parade or motorcade for which a permit has been issued.
4. When by reason of disaster, public calamity, riot, or other emergency, the chief of police determines that the safety of the public or property required such denial.

A permit once granted may be revoked for any of the above-stated reasons. Notice of denial or revocation shall be delivered in writing to the permittee by personal service or by certified mail. (Prior code §22-54)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.120 Obstructions by groups of people.

Three (3) or more persons shall not stand together or near each other in any street, or on any footwalk or sidewalk in the city, so as to obstruct the free passage for foot passengers, and any persons so standing shall move on immediately after a request to do so, made by the mayor, chief of police or any police officer. (Prior code §22-55)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.130 Sales on streets.

No person shall, except in accordance with a written permit from the chief of police and except as provided in Section 17 of Chapter 101 of the General Laws, in any street or from any point immediately adjacent to a sidewalk, sell or offer for sale any goods or articles to any person on any sidewalk of the city. (Prior code §22-56)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.140 Regulation of sales from moving vehicles.

Every motor vehicle used for the retail sale of frozen desserts and soft drinks, in, upon or along any street or from any point immediately adjacent to a sidewalk or for sale to any person on any sidewalk of the city shall be equipped with front and rear amber blinker lights plainly visible from a distance of at least five hundred (500) feet and said lights shall be left flashing when the motor vehicle is stopped for the purpose of selling or soliciting any sale. (Prior code §22-56A)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.150 Stands for draymen.

A. No owner, driver or other person having charge or control of any vehicle used for the purpose of conveying from place to place within the city, for hire, any wood, coal, lumber, stone, brick, sand, gravel, clay, dirt, rubbish, goods, wares, furniture or merchandise, shall stand or wait with any such vehicle, for orders or employment, or permit any such vehicle, so under his charge or control, to stand for orders in any street, square, lane, court or public way or public place within the city, other than such stands as may be assigned by the chief of police.

B. The city council may from time to time grant licenses to such persons and upon such terms as they may deem proper, to employ or use any such vehicle, for the purpose mentioned in this chapter. Whoever being so licensed violates the provisions of this section may have his license forthwith revoked by the city council. (Prior code §22-57)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.160 Moving buildings through streets.

No person shall move or cause to be moved any building through any public street in the city, without first obtaining from the director of public works a written permit therefore, stating the streets through which, and the time within which, the building may be moved, and any other provisions they may deem best, and filing with the director of public works a written agreement under seal, approved by the director of public works to comply with the terms of the permit and indemnify the city for all loss, cost or expense it may suffer by reason of the moving of such building. (Prior code §22-58)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16

Street And Sidewalk Use Regulations
10.16.170 Draining water into street--Generally.

No person shall allow any sink water or other impure water to run from any house, barn or lot occupied by him or under his control, into any street in the city. (Prior code §22-59)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.180 Draining water into street--From eaves of buildings.

No person shall permit water from the eaves or leader pipes of any building owned or cared for by him to be discharged or to flow upon any public street or sidewalk in the city.

(Prior code §22-60)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.190 Draining water into street--Washing windows or walls.

No person, between the hours of seven-thirty (7:30) a.m. and eleven-thirty (11:30) p.m., shall wash or allow to be washed any windows or walls of a building owned or cared for by him in such a manner as to cause the discharge of water upon any public sidewalk or walk devoted to the public use. (Prior code §22-61)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.200 Gates or doors.

No person shall allow any gate or door belonging to premises owned or occupied by him or under his control to swing on, over or into any street or sidewalk in the city.

(Prior code §22-62)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.210 Auction on streets.

No auctioneer shall hold his sale upon any sidewalk or other thoroughfare in the city, so as to obstruct or prevent the free and convenient use of the same by foot passengers traveling thereon. (Prior code §22-63)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.220 Playing in streets.

No person shall, within the limits of any street in the city, play at any game of ball, or fly any kite, or balloon, or throw any stone or other missile, or engage in any other game, amusement or exercise interfering with free, safe and convenient use of such street by any person traveling or passing along the same. (Prior code §22-64)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.230 Coasting, sliding and skiing.

A. No person shall course, coast or slide upon any sled, ski, board or other thing upon any sidewalk or footwalk in the city, except as provided in Section 10.16.080.

B. No person shall course, coast or slide upon any sleigh, ski, sled or other vehicle constructed specifically and expressly for motion by sliding in, along or upon any street or portion thereof within the prescribed limits of the city.

C. This section shall not apply to any horse drawn sleigh or sled. (Prior code §22-65)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations
10.16.240 Covering or surfacing--Gasoline pumps, oil boxes or pipes, barber poles, advertising signs and telephones.

No person shall place or maintain in the sidewalk of any public street in the city any covering or surfacing made of metal or the combination of metal and any other material, nor place or maintain in, on or over any sidewalk or tree belt of any such public street in the city, any gasoline pump, oil container, oil or gasoline fill box or pipe, parking sign, barber pole, directing sign, advertising sign or device or any other sign or public telephones, telephone booths and other appurtenances thereto, without first having been authorized to do so by a written license from the director of public works, which license shall not be valid until recorded by the director of public works in a book to be kept for the purpose; and no such license shall be given until the licensee gives to the city a bond, to be approved by the mayor, conditioned to indemnify, protect or save harmless the city from any and all loss by reason of any person sustaining bodily injury or damage in his property by reason of such placing or maintaining in, on or over the sidewalk or tree belt of any such public street, of any such covering or surfacing or any gasoline pump, oil container, oil or gasoline fill box or pipe, parking sign, barber pole, directing sign, advertising sign or device, or any other sign or public telephones, telephone booths and other appurtenances thereto. (Prior code §22-66)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16

Street And Sidewalk Use Regulations

10.16.250 Covering or surfacing--Conditions of license.

A. The director of public works shall not authorize the placing or maintaining in the sidewalks of any such covering except upon the express condition to be stated in the license, that the same shall be so constructed as not to present a smooth surface on which travelers may slip, or a surface so rough as to be an obstruction to public travel.

B. Any license granted by the director of public works may be revoked at any time by a written revocation to be filed with the director, who shall note the filing thereof on the recorded copy of the license, and each license shall state that it is subject to such revocation. (Prior code §22-67)

Title 10

Streets, Sidewalks And Public Places

Chapter 10.16

Street And Sidewalk Use Regulations

10.16.260 Covering or surfacing--Exceptions as to flagpoles.

Notwithstanding the provisions of Section 10.16.240 and 10.16.250, the provisions that no such license shall be given except upon condition that the licensee gives to the city a bond conditioned as provided in Section 10.16.240 shall not apply to cases of licenses to place or maintain in the sidewalk of a public street in the city coverings of receptacles for flagpoles placed in the sidewalk for the display of flags for patriotic purposes, and for the placing or maintaining in such receptacles of flagpoles bearing flags; provided, that such receptacle and covering shall not exceed one and one-half (1 1/2) inches in diameter, and; provided further, that such covering when in place shall be flush with and on a plane with the sidewalk. (Prior code §22-68)

Title 10

Streets, Sidewalks And Public Places

Chapter 10.16

Street And Sidewalk Use Regulations

10.16.270 Subject to provisions of law of Commonwealth.

All the provisions of this chapter shall be subject to the provisions of Chapter 369 of the Acts of 1911 and the acts in amendment thereof and in addition thereto. (Prior code §22-69)

Title 10

Streets, Sidewalks And Public Places

Chapter 10.16

Street And Sidewalk Use Regulations

10.16.020 Digging up streets and sidewalks--Placing material thereon.

A. Any person, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate who occupies or excavates the public or private ways of the city of Springfield with proper permit from the director of public works or otherwise, as a condition of such occupation, shall be responsible and liable for the maintenance and permanent restoration of all pavement within thirty (30") inches of any and all of the appurtenant structures where they intersect the surface of the public way, private way, roadway or sidewalk, and shall maintain said areas and repair any defect in its entirety which lies wholly or in part in the said area. Defects shall include, but not be limited to: pot holes, chuckholes, frost heaves, cracking, spalling, settling, delaminating or patch repair. Repairs

and restorations made by the above-mentioned parties shall be made in accordance with the specifications of, and under permit from the director of public works, and at no cost to the city.

B. Each person, corporation, trust, partnership, governmental board, commission, authority, agency or body politic and corporate, occupying the public or private way, as a condition of such occupation, shall forever indemnify and save harmless the city of Springfield against all claims and demands of all persons for damages, costs, expenses or compensation for, on account of, or in any way growing out of, or the result of any surface defect occurring wholly or in part within the area described in Subsection 10.16.020(A).

C. No person, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate except the director of public works, in the performance of his duties, shall break, dig up or otherwise excavate or cause to be broken, dug up or excavated the pavement or ground in any public street, or private way, or any sidewalk or ground in any public street, private way, or any sidewalk or common way, or erect or place or cause to be erected or place any materials or rubbish thereon, without first obtaining from the director of public works a written permit that indicates in writing the space in the street or other public place that may be occupied, and the time in which such occupancy may be allowed, and such other provisions as the director of public works may deem best, and filing with the director of public works a written agreement under seal approved by the director of public works, to comply strictly with the terms of the permit and indemnify the city from all loss, cost or expense that it may suffer by reason of such occupancy.

D. Consistent with 11.08.110, 11.08.120, 11.08.180, and 11.08.560 no person, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate, except the director of public works and the Springfield Water and Sewer Commission, shall work or operate as a contractor to excavate for any utility and restore said pavement without first obtaining from the director of public works, a license to do so. Application for such license shall be made upon a proper and appropriate form furnished by the director of public works, setting forth such information and data therein as may be necessary to identify the applicant, to set forth his background of technical qualifications and training, and to set forth the equipment to be used by him. Said application shall first be submitted to the director of public works, with a non-refundable \$100.00 application fee, who shall cause his recommendation of approval or disapproval to be placed thereon. Upon recording his recommendation, the director of public works shall issue said license only if it determines that there exists a necessity for said license and the applicant is found competent as a contractor for water, sewer, drain and other utilities, and pavement restoration. Upon issuance of said license, it shall remain in force until the last day of December each year, unless sooner revoked by the director of public works, and shall require an annual renewal fee of \$100.00. The director of public works shall not deliver any permit required by section 10.16.020 and 11.08.110 to any person, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate, except the director of public works and the Springfield Water and Sewer Commission, until the director of public works approves their license and the contractor provides a one (1) year performance bond with one or more sureties and liability insurance satisfactory to the director of public works.

E. The following is a schedule of permit fees which shall be charged by the city, by and through its department of public works for the excavation and/or for the obstruction of public ways:

1. PERMIT APPLICATION	\$50.00
2. INSPECTION FEES:	
a. General roadway excavation	\$35.00 day
b. General street excavation prior to city resurfacing program (see notes F(1) and F(2) below)	\$100.00
3. Non-excavation	\$15.00 day
4. Blanket manhole (public utility)	\$750.00 year
5. Contractor License application fee	\$100.00

F. NOTES:

1. For contractors hired by the director of public works, the inspection fee is waived.
2. Upon notification by the city of a street resurfacing project all life-cycle pavement fees shall be waived and a lump sum inspection fee will be charged pursuant to 2(D)(1) and 2(D)(3).

G. The director of public works shall determine all rules, policies, specifications as they pertain to any and all excavations and repairs to public and private ways. These regulations shall be provided to contractors seeking to acquire street permits to occupy any public or private way. Specifications shall be reviewed and revised yearly when necessary. All rules, regulations, specifications and policies will be contained in the department of public works. "Street Occupancy Manual".

H. Any person, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate who opens an excavation without a permit shall be subject to cancellation of existing permits, refusal of future permits, license revocation in accordance with chapter 5.64 of the Revised Ordinances of the City of Springfield, 1986, as amended and shall be fined in accordance with subsection I below and/ or 11.08.560.

I. Any regulated industry company (formerly known as a public utility company) that shall break or dig up the ground or pavement of any street or public way shall restore the same to the proper condition to the satisfaction of the director of public works in accordance with Massachusetts General Laws Chapter 164, Section 70. Further, any regulated industry company who excavates streets in the city "shall put all such streets, lanes and highways in as good repair as they were in when opened; and upon failure so to do within a reasonable time, shall be guilty of a nuisance" in accordance with Massachusetts General Law Chapter 164, Section 70.

J. Any person, or regulated industry company, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate shall have up to ninety (90) days to restore any street, lane or highway in as good repair as they were when opened(permanent repair). If any person, or regulated industry company, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate fails to restore any street, lane or highway to the condition it was in prior to the excavation within ninety (90) days, then said person or Any person, or

regulated industry company, corporation, trust, partnership, governmental body, board, commission, authority, agency, or body politic and corporate shall be subject to a maintenance fee of one hundred dollars (\$100) per day for the life of the road in addition to the daily inspection fee. (Prior code §22-45) (as amended 09/29/1989; 03/27/2009)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.16
Street And Sidewalk Use Regulations

10.16.280 Fee for licensing of signs and other structures projecting into or over public ways—Life cycle fees.

A. The fee for a license granted under the provisions of Section 10.16.240 and 10.16.250 shall be five dollars (\$5.00).

B. Subject to the provisions of Section 10.16.020, all excavators are responsible for repairs to pavement for one (1) year or until the city's acceptance of the repair whichever is later. The following is a schedule of the fees which shall be charged by the city, by and through its department of public works for "Life Cycle Pavement Fees":

(1) Pavement less than one (1) year old	\$50.00/sq. ft.
(2) Pavement less than five (5) years old	\$20.00/sq. ft.
(3) Pavement five (5) to ten (10) years old	\$10.00/sq. ft.
(4) Pavement over ten years old	\$ 5.00/sq. ft.
(5) Excavation performed prior to street resurfacing for those streets on DPW's resurfacing list	NO CHARGE

C. The director of public works shall waive the life cycle payment fee for any utility company or other party, if the utility, or other party, can demonstrate to the director their ability to satisfactorily maintain the pavement in question.

(Ord. 1984 Ch. 2 (part); prior code §22-70) (as amended 06/11/1990)

TITLE 10
STREETS, SIDEWALKS AND PUBLIC PLACES
CHAPTER 10.16
STREET AND SIDEWALK USE REGULATIONS
10.16.025 License--Life cycle pavement fees.

A. Subject to the provisions of Section 10.16.020, all excavators are responsible for repairs to pavement for one (1) year or until the city's acceptance of the repair whichever is later. The following is a schedule of the fees which shall be charged by the city, by and through its department of public works for "life cycle pavement fees":

1. Pavement less than one (1) year old \$100.00/sq. ft.
2. Pavement less than five (5) years old \$ 50.00/sq. ft.
3. Pavement five (5) to ten (10) years old \$ 20.00/sq. ft.
4. Pavement over ten (10) years old \$ 10.00/sq. ft.

B. Waiver of the life cycle pavement fees. If a contractor seeks a waiver of the life cycle pavement fee the following must be complied with:

1. A roadway reconstruction plan must be submitted and approved by the engineering division.
 2. The roadway area affected by the excavation, curb to curb, must be removed and properly discarded.
 3. The gravel base must be brought to grade and properly compacted.
 4. Bituminous concrete shall be placed by machine and properly rolled according to Massachusetts Department of Public Works Standards (depth to be determined by city engineer). (added 03/27/2009)
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Title 10
 Streets, Sidewalks And Public Places
 Chapter 10.20
 Wetland Protection Regulations
10.20.010 Purpose.

The purpose of this ordinance is to protect the wetlands, related water resources, and adjoining land areas in the in the city by prior review and control of activities deemed by the conservation commission to have, or likely to have, an effect or cumulative effect upon wetland values including but not limited to the following: public water supply, private water supply, ground water and ground erosion and sedimentation control, storm damage prevention, prevention of water pollution, fisheries, endangered species, wildlife and wildlife habitat, and aesthetics. (collectively, the "interests protected by this ordinance"). This ordinance is further intended to provide a means for review and correction of activities performed by any person in violation of any provision contained herein.

(added 05/05/1993)

Title 10
 Streets, Sidewalks And Public Places
 Chapter 10.20
 Wetland Protection Regulations
10.20.020 Definitions.

A. The following definitions shall apply in the interpretation and implementation of this ordinance.

1. The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political sub-division thereof to the extent subject to city ordinance, administrative agencies, public or quasi-public corporations or bodies, this municipality, and any other legal entity, its legal representatives, agents or assigns.
2. The term "alter" shall include, without limitation, the following actions when undertaken in resource areas subject to this ordinance:

- a. Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
- b. Changing of preexisting drainage characteristic, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
- c. Drainage or other disturbance of water level of water table;
- d. Dumping, discharging, or filling with any material of in any manner which may degrade water quality or interfere with any of the interests protected by this ordinance;
- e. Driving of piles, erection of building, or structures of any kind;
- f. Placing of obstructions or objects in water;
- g. Destruction of plant life including cutting of trees;
- h. Changing water temperature, biochemical oxygen demand, or their physical or chemical characteristics of water;
- i. Any activities, changes, or work which pollute in any way any body of water or groundwater.

B. "Applicant" shall mean a person giving notice of intention to build, remove, fill, dredge or alter or making a request for determination.

C. "Banks, bordering fresh water wetland, flat, marsh, wet meadow, bog, swamp estuary, creek, river, pond, lake and bordering and isolated land subject to flooding" shall unless otherwise defined in this ordinance, have the same meaning as in the Wetlands Protection Act and the regulations thereunder.

D. "Isolated wetlands" are areas of wetland vegetation (as defined above in this ordinance) which are subject to flooding and consists of isolated depressions or closed basins which serve as a ponding area for run-off or high ground water. Such areas must be at least 400 square feet in area and may include kettle holes and bogs.

E. "Temporary wetlands" are those areas of at least 400 square feet in areas which are periodically flooded on a purely seasonal basis by high ground water and/or run-off and include vernal and autumnal ponds. These areas can be either natural or artificial. If artificial they must support vegetative community that has naturally populated the subject area.

F. "Significant effect", an activity has a significant effect on the interests protected by this ordinance and tends to reduce the capacity of that resource area to support or sustain the interests protected by this ordinance.

G. "Cumulative effect", an activity has cumulative effect on the interests protected by this ordinance if such activity, added to or in conjunction with similar activity which has occurred or has been proposed and which affects the same resource area, has a measurable impact on a resource area covered by this ordinance and tends to reduce the capacity of that resource area to support or sustain the interests protected by this ordinance. The applicant shall have the burden of proving by a preponderance of credible evidence that the activity has no cumulative effects on the values protected by this ordinance.

H. Other Definitions: The commission may adopt additional definitions not inconsistent with this ordinance in its regulation. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.030 Jurisdiction.

Except as permitted by the conservation commission or as provided in this ordinance, no person shall remove, fill, dredge, alter, or build upon or within any of the following resource areas: On or within one hundred (100) feet of any bank, beach, or flat; on or within 100 feet of any fresh water wetland, marsh, meadow, bog, or swamp; upon or within one hundred (100) feet of any lake, pond, river, stream whether intermittent or permanent natural or man-made; upon any land subject to flooding or inundation by ground water or surface water or storm flowage and upon or within one hundred (100) feet of any seasonal or temporary wetland including certified or uncertified but known vernal pools. Any activity proposed or undertaken outside any area specified above shall be subject to regulation under this ordinance if, in the judgment of the conservation commission or its agent, said activity may result or has resulted in the removing, filling, altering, or building upon any area specified above. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.040 Minimum setback.

A. A minimum of a fifty (50) foot undisturbed buffer shall be established adjacent to any vegetated wetland, bank, lake, stream or river, intermittent or continuous, natural or artificial and certified or uncertified vernal pools. No work, structures or alterations will be allowed within the fifty (50) foot buffer.

B. Variances may be granted by the commission allowing work closer than fifty (50) feet when it can be demonstrated by the applicant that work or alterations within the fifty (50) foot buffer will enhance the wetland interests specified under this ordinance. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.050 Exceptions.

A. The permit and application required by this ordinance shall not be required for maintaining, repairing, or replacing an existing and lawfully located structure or facility which is used in the service of the public to provide electric, gas, water, sanitary sewer, storm drainage, public roadways, telephone, telegraph or other telecommunication services, provided that any work done conforms to the performance standards and design specifications in regulations adopted by the conservation commission.

B. The permit and application required by this ordinance shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof, provided that the conservation commission certified by the conservation commission for the limited purpose necessary to abate the emergency. Within twenty-one (21) days of commencement of an emergency project, a permit application shall be filed with the conservation commission for review as provided in this ordinance.

C. The commission may exempt by regulation the application of this ordinance to work performed for normal maintenance or improvement of land actively devoted to agricultural use at the time of the application, provided that such regulations are consistent with the provision applying to agricultural exemptions in the regulations promulgated under the Wetland Protection Act.

D. Other than stated in this section, the exemptions provided in the Wetlands Protection Act and the regulations promulgated thereunder shall not apply. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.060 Applications and permits.

A. Written application shall be filed with the conservation commission to perform any work which will or which, in the opinion of the conservation commission, may effect resource areas within the jurisdiction of this ordinance. The application shall include such plans as are deemed necessary by the conservation commission to describe the proposed activities and their effects on the environment. No work or

alteration shall, commence without receiving and complying with a permit issued pursuant to the Wetland Protection Act. M.G.L. Chapter 131, §40.

B. At the time of application, the applicant shall pay a filing fee specified in the regulations of the conservation commission promulgated pursuant to this ordinance, which shall be in addition to any fee required by the act. The commission may waive the filing fee and costs and expenses for any application or request filed by a government agency.

C. In addition, the commission is authorized to assess the applicant any costs and expenses associated with the retaining of an expert consultant by the commission for necessary and appropriate reviews of an application or request. A fee schedule will be established under the regulations. The schedule will be commensurate with the size of the project.

D. Any person desiring to know whether or not proposed work or an area is subject to this ordinance may request a determination in writing from the conservation commission. Such a request for determination shall contain data and plans as specified by the regulations of the conservation commission promulgated pursuant to this ordinance. All requests shall be subject to the policies and fee schedules established under the regulations. The fee shall not exceed the reasonable cost of investigation or determination, and shall be uniform for everyone. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.070 Notice and hearing.

A. Any person filing an application or request for determination with the commission at the same time shall give written notice thereof, by certified mail or hand delivery of all abutters according to the most recent records of the assessors. An abutter shall be defined as all persons whose property is directly abutting the project site or is directly across a street or right of way from the project area, and to all other persons, boards or agencies as the conservation commission shall in writing require. The notice shall enclose a copy of the application or request with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered and listing of those abutters notified shall be filed with the commission prior to the commencement of the public hearing. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the commission to the owner as well as to the person making the request.

B. The commission shall conduct a public hearing on any application or request for determination, with written notice, published at the expense of the applicant five (5) working days prior to the hearing, in a newspaper of general circulation in the city.

C. The commission shall commence the public hearing on any application or request for determination within twenty-one (21) days from the receipt of a properly completed application or request.

D. The commission shall issue its permit or other, action, or determination, in writing within twenty-one (21) days of the close of the public hearing thereon, or within twenty-one (21) days of the close of any continuance of the prior public hearings.

E. The commission may combine its hearing under this ordinance with the hearing conducted under the Wetland Protection Act.

F. For reasons announced by the conservation commission at the hearing, the commission shall have authority to continue or postpone the hearing to a certain date announced at the hearing, either for receipt of additional information offered by the applicant or others, or for information required of the applicant, deemed necessary the conservation commission in its discretion, or comments and recommendations of boards, officials and/or agencies of the city.

G. The conservation commission shall take action on the application at the continuance date, provided that the applicant has complied in all respects with the request of the conservation commission for further information pursuant to this section unless further continuances are consented to by the applicant.

H. The commission shall develop a set of pre-submission requirements for the assistance of persons making application before the commission, a current copy of which shall be on file with the commission. Any person filing a request for determination or a notice of intent with the commission shall complete the filing in accordance with such of those requirements which are necessary as determined by the commission or its staff. The commission reserves the right to ask for any additional information it deems necessary to evaluate a project. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.080 Coordination with other boards.

A. Any person filing a permit application or request for determination with the commission shall, if requested in writing by the conservation commission or its agent, provide a copy thereof at the same time, by certified mail or hand delivery, to the mayor, planning board, board of appeals, department of public works, board of health, and department of code enforcement, building division, who shall if requested by the conservation commission in writing file written comments and recommendations with the commission.

B. The commission shall not take final action until such boards and officials have had fourteen (14) days from the receipt of notice to file said written comments and recommendations with the commission, which the commission shall take into account but which shall not be binding on the commission. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.090 Permit--Determinations and conditions.

A. If the commission after a public hearing determines that the area which is subject to the application is likely to be significant to the interests protected by this ordinance, the commission, within twenty-one (21) days of the close of the hearing or a continuance thereof, shall issue or deny a permit for the work requested. If it issues a permit, the commission shall impose conditions which the commission deems necessary or desirable to protect those interests, and all work shall be done in accordance with those conditions.

B. If the commission determines that the activities which are the subject to an application are not likely to have a significant or cumulative effect upon the interests protected by this ordinance, the commission shall so inform the applicant that the activities do not require a permit.

C. The commission is empowered to deny a permit for failure to meet the requirements of this ordinance, the reasons include but are not limited to, failure to submit necessary information and plans requested by the commission; failure to meet the design specification, performance standards and other requirements which the commission may adopt in regulations of the commission; failure to avoid or prevent unacceptable significant or cumulative effects upon the interest protected by this ordinance; and where no conditions are adequate to protect those values.

D. A permit shall expire three (3) years for the date of issuance, and all work shall be completed prior to expiration. The commission may extend a permit for additional one (1) year periods.

E. For good cause the commission may revoke or modify a permit issued under this ordinance.

F. The conservation commission shall issue permits under this chapter in addition to any order of conditions issued under the Wetlands Protection Act.

G. No work proposed in any application shall be undertaken until the permit or determination issued by the commission with respect to such work has been recorded in the Hampden County Registry of Deeds, and the holder of the permit has certified in writing to the commission that the permit has been so recorded, or, court for the district wherein the land lies, by the holder of the permit until the holder of the permit certifies in writing to the commission that the permit has been so recorded. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.100 Acquired real estate.

Any person(s) who purchases, inherits or otherwise acquires real estate upon which work has been performed in violation of the provisions of this ordinance shall forthwith comply with any order of conditions or restore such land to its conditions prior to any such violation provided, however, that unless the violation is found by the commission, after notice and hearing, to pose a substantial and material threat to the interests protected by this ordinance, no action, civil or criminal, shall be brought against such person unless such action is commenced within three (3) years of following the recording of the deed or the date of the death by which such real estate was acquired by such person and the order of conditions which is being violated or any enforcement order relating to the violation was appropriately recorded.

(added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.110 Enforcement order.

A. Any person(s) who receive an enforcement order from the commission for a violation of this ordinance shall within ten (10) working days of receipt of the order, file said order at the Registry of Deeds or if registered land, in the registry section of the Land Court as an attachment on the deed of the property on which said violation occurred.

B. The commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this ordinance and may make or cause to be made such examinations, surveys or sampling as the commission deems necessary.

C. The police department and the conservation commission shall have authority to enforce this ordinance, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

D. Upon request of the commission, the city solicitor shall take whatever legal action is necessary for enforcement under civil and criminal court actions.

E. In the alternative to criminal prosecution the commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter 40, §21D.

F. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the conservation commission in enforcement.

G. Any person who violates any provisions of this ordinance, regulations thereunder, or permits issued thereunder, shall be punished by a fine of not more than three hundred dollars (\$300.00). Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the ordinance, regulations, or permit violated shall constitute a separate offense. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.120 Regulations.

A. After public notice and public hearing the commission shall promulgate the rules and regulation to effectuate the purposes of this ordinance. Public notice shall include publication of all proposed regulations in a newspaper of general circulation in the city not less than twenty-one (21) days prior to public hearing. Failure by the commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this ordinance.

B. At a minimum these regulations shall define key terms in this ordinance not inconsistent with this ordinance.

C. Unless otherwise stated in this ordinance or in the rules and regulations promulgated under this ordinance, the definitions, procedures and performance standards of the Wetlands Protection Act and associated regulations, 310 CMR 10.00 in effect as of the effective date of this ordinance shall apply. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.130 Burden of proof.

The applicant for a permit shall have the burden of proving by clear and convincing evidence that the work proposed in the application will not harm the interests protected by this ordinance. Failure to provide adequate evidence to the commission supporting a determination that the proposed work will not harm the interests protected by this ordinance shall be sufficient cause for the commission to deny a permit.

(added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.140 Relation to the Wetland Protection Act.

This ordinance is adopted under the M.G.L. Chapter 21, independent of the Wetland Protection Act, M.G.L. Chapter 131, §40, and regulations thereunder. (added 05/05/1993)

Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.150 Security.

A. As part of a permit issued under this ordinance, in addition to any security required by any other town or state board, agency or official, the commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

1. By a proper bond or deposit, of money or negotiable securities sufficient in the opinion of the commission.
 2. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded (or registered in the case of registered land), running with the land to the benefit of this municipality and members of the public, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by a mortgage deed. (added 05/05/1993)
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Title 10
Streets, Sidewalks And Public Places
Chapter 10.20
Wetland Protection Regulations
10.20.160 Severability.

A. The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof, nor shall it invalidate any order of conditions which previously has been issued.

B. If any court of the Commonwealth shall invalidate any provision of this ordinance or any regulation promulgated thereunder, the conservation commission shall present to the next city council meeting after such invalidation amendments to this ordinance which are designed to comply with any court decision invalidating such provision, and shall amend the regulations pursuant this ordinance to comply with such decision. (added 05/05/1993)