

CHAPTER 11

Streets, Sidewalks and Public Places

Article 1 Streets and Sidewalks

- Sec. 11-1-10 Street grades
- Sec. 11-1-20 Datum plane established
- Sec. 11-1-30 Determination; profiles
- Sec. 11-1-40 Street work to be in compliance with grading
- Sec. 11-1-50 Obstruction of streets or sidewalks prohibited
- Sec. 11-1-60 Sidewalks free of ice, snow, mud and debris
- Sec. 11-1-70 Sidewalk openings
- Sec. 11-1-80 Riding of bicycles or skateboards on sidewalks prohibited

Article 2 Sidewalk Construction and Repair

- Sec. 11-2-10 Petition to construct sidewalks
- Sec. 11-2-20 Construction at insistence of and by City
- Sec. 11-2-30 Construction standards
- Sec. 11-2-40 Removal of traffic hazards

Article 3 Snow Events

- Sec. 11-3-10 Snow event declared
- Sec. 11-3-20 Notice
- Sec. 11-3-30 Snow routes
- Sec. 11-3-40 Authority to tow vehicles
- Sec. 11-3-50 Termination of snow event

Article 4 Cemetery

- Sec. 11-4-10 Control and supervision
- Sec. 11-4-20 Rules and regulations
- Sec. 11-4-30 Duties of City Administrator
- Sec. 11-4-40 Maps and records; burial permits
- Sec. 11-4-50 Applications for burial spaces; contract for sale of spaces
- Sec. 11-4-60 Price of spaces
- Sec. 11-4-70 Transfer, assignment or conveyance of property rights
- Sec. 11-4-80 Selling lots or spaces for resale
- Sec. 11-4-90 Interments
- Sec. 11-4-100 Erection of monuments, markers and vaults
- Sec. 11-4-110 Fences, railings and decorations; planting vegetation
- Sec. 11-4-120 Fees for interment or disinterment
- Sec. 11-4-130 Perpetual care by City
- Sec. 11-4-140 Perpetual care fund
- Sec. 11-4-150 Prohibited acts
- Sec. 11-4-160 Closing driveways; establishing grades
- Sec. 11-4-170 City liability for acts of trespassers
- Sec. 11-4-180 Penalty

ARTICLE 1

Streets and Sidewalks

Sec. 11-1-10. Street grades.

The grades of the several streets of the City shall be the grade at the center line of such streets, and the grade between all points given shall be in a uniform direct line between each two (2) points so given, ascending, descending or level, as the case may be. The grades of the sidewalks along the several streets shall be the grades at the building or lot line of the property adjacent to such sidewalks, and the grades between all points where elevations are given shall be in a uniform direct line between such points, ascending, descending or level, as the case may be, except when otherwise especially provided. (Prior code §21-1)

Sec. 11-1-20. Datum plane established.

The following described point is hereby established as the datum plane, or bench mark, from which all elevations and grades of streets and sidewalks in the City shall be determined: The upper surface of a stone marked "BM" situated at a point twenty-five (25) feet north of the southeast corner of the City park, the assumed elevation of such datum plane, or bench mark, being twenty-five (25) feet. (Prior code §21-2)

Sec. 11-1-30. Determination; profiles.

To determine the elevation or grade of any street or sidewalk, where the grade is established, reference shall be made to the profiles of such streets and sidewalks on file in the office of the City Clerk. All elevations indicated in such profiles shall be from the established datum plane, or bench mark, for the City. (Prior code §21-3)

Sec. 11-1-40. Street work to be in compliance with grading.

All work upon the streets and alleys of the City shall approximate, as near as possible, to the grade of such streets and alleys as are established by the City Council. (Prior code §21-4)

Sec. 11-1-50. Obstruction of streets or sidewalks prohibited.

No person shall in any manner obstruct or encumber any street, alley or sidewalk within the City, or erect or place any building or other obstruction upon any street, alley or sidewalk in the City, in whole or in part, without the written permission of the Chief of Police. No person shall fail to remove any such obstruction within twenty-four (24) hours after being notified by the Chief of Police or City Clerk to do so. (Prior code §21-5; Ord. 774-06 §1)

Sec. 11-1-60. Sidewalks free of ice, snow, mud and debris.

All persons shall keep the sidewalk in front of and adjacent to the premises or tenements occupied or owned by them clear of ice, mud, dirt, filth and rubbish within twenty-four (24) hours of any snowfall. No snow shall be removed to any street after that portion of the street has been cleared by City snow removal crews. (Prior code §21-6; Ord. 774-06 §1)

Sec. 11-1-70. Sidewalk openings,

All openings in sidewalks for the admission of fuel or light shall be securely covered with iron or iron and glass covers. (Prior code §21-7)

Sec. 11-1-80. Riding bicycles or skateboards on sidewalks prohibited.

No person shall ride any bicycle or skateboard upon any sidewalk in the City. (Prior code §21-8; Ord. 774-06 §1)

ARTICLE 2

Sidewalk Construction and Repair

Sec. 11-2-10. Petition to construct sidewalks.

(a) When the owners of sixty percent (60) of the frontage of the lots or lands adjacent to or abutting upon any street or alley or designated portion thereof petition the City Council to construct sidewalks along said street or alley or designated portion thereof, the City Council shall order said improvements to be made, shall assess the cost of said improvements against the lots or lands adjacent to or abutting upon said sidewalk, street or alley so improved, and shall collect the assessment as provided for in this Article. In addition to the construction of sidewalks, when the owners of sixty percent (60%) of the frontage of the lots or lands adjacent to or abutting upon any street or alley or designated portion thereof petition the City Council to assess a periodic continuing maintenance fee for said sidewalk, street or alley so petitioned, except as provided in Section 11-1-60, the City Council shall assess the periodic continuing maintenance fee so stated in the petition and include such fee in the City's periodic billing for utilities and other services. If so stated in the petition, the Council may adjust the maintenance fee as needed to cover maintenance expenses, by resolution from time to time. (Ord. 797-10)

(b) When the cost of any improvement provided for in Subsection (a) above is assessed against the owners of adjacent or abutting property, and the assessment is not paid within thirty (30) days, the City Clerk shall certify said assessment to the County Treasurer who shall extend said assessment upon his or her tax roll and collect it in the same manner as other taxes assessed upon said property. The assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

(c) It is the responsibility of the owners of adjacent or abutting property to keep in good repair all sidewalks fronting upon the same, at their own expense. (Prior code §21-9; Ord. 774-06 §1)

Sec. 11-2-20. Construction at insistence of and by City.

When the City Council deems it necessary that any portion of a sidewalk, curb and gutter be constructed or repaired, it may, upon its own motion, order such work to be done, and if not constructed or repaired by the owner of the adjacent or abutting property upon written notice within one hundred eighty (180) days after receipt thereof, the City may construct or repair the same, assess

the cost thereof against the adjacent property owner and collect the assessment as provided in Section 11-2-10 above. (Prior code §21-10)

Sec. 11-2-30. Construction standards.

All sidewalks laid in the City shall be constructed pursuant to standards adopted by the City Council by resolution from time to time. (Prior code §21-11)

Sec. 11-2-40. Removal of traffic hazards.

(a) The City Council may by written notice sent by certified mail or by personal service require the owner of real property abutting on the right-of-way of any highway, sidewalk or other public way to trim or remove, at the expense of said property owner, any tree limb or any shrub, vine, hedge or other plant which projects beyond the property line of such owner onto or over the public right-of-way and thereby obstructs the view of traffic, obscures any traffic control device or otherwise constitutes a hazard to drivers or pedestrians.

(b) It is the duty of the property owner to remove any dead, overhanging boughs of trees located on the premises of such property owner that endanger life or property on the public right-of-way.

(c) In the event that any property owner fails or neglects to trim or remove any such tree limb or any such shrub, vine, hedge or other plant within ten (10) days after receipt of written notice from the City to do so, the City may do or cause to be done the necessary work incident thereto, and said property owner shall reimburse the City for the cost of the work performed. If not paid within thirty (30) days, the City Clerk shall certify such assessment to the County Treasurer who shall extend such assessment upon his or her tax roll and collect it in the same manner as other taxes assessed upon said property. The assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. (Prior code §21-12)

ARTICLE 3

Snow Event

Sec. 11-3-10. Snow event declared.

Whenever the Director of Public Works (hereinafter "Director") finds and so determines that due to falling snow, sleet, freezing rain or a forecast by the National Weather Service of weather conditions that so warrant, the Director is hereby authorized to declare the existence of a snow event. (Prior code §21-13)

Sec. 11-3-20. Notice.

The Director shall provide announcements to local radio stations, the Morgan County Communications Center, and the Police Department declaring a snow event to exist and describing the action to be taken by the City. There shall be included in such announcement the time that any parking prohibitions are to become effective. When feasible, such announcement shall be disseminated to a newspaper having general circulation within the City. The Morgan County

Communications Center shall implement an Emergency Alert System (EAS) bulletin through the cable television network informing City residents of the snow event declaration. (Prior code §21-14)

Sec. 11-3-30. Snow routes.

Upon the declaration of the existence of a snow event, parking of motor vehicles shall be prohibited on all streets designated as "Snow Routes." For the purposes of this Article, snow routes shall consist of those streets or portions of streets within the City as determined by the Public Works Director. On each street or portion of street which is designated as a snow route, the Director shall post, at reasonable intervals, special traffic signs indicating by the appropriate symbol or wording that such street or portion of such street has been designated as a snow route. (Prior code §21-15)

Sec. 11-3-40. Authority to tow vehicles.

Whenever any vehicle, except an emergency vehicle, is found standing, attended or unattended upon a snow route in violation of the snow event parking prohibition, the Director shall, without delay and at the owner's expense, take action to have the vehicle towed or otherwise removed from the snow route. (Prior code §21-16)

Sec. 11-3-50. Termination of snow event.

Whenever the Director finds that some or all of the conditions which gave rise to the snow event no longer exist, the Director may declare the termination of the snow event in part or in whole, effective immediately upon announcement. Upon declaring the termination of the snow event, the Director shall notify the Police Department, the local radio stations and the Morgan County Communications Center. The Communications Center shall broadcast an EAS bulletin notifying residents of the termination of the snow event. In the absence of any such announcement, whenever the entire roadway of any snow route is substantially clear of snow from curb to curb, the snow event shall be deemed to be terminated on the cleared snow route and the normally permitted parking of vehicles shall thereupon be automatically authorized. (Prior code §21-17)

ARTICLE 4

Cemetery

Sec. 11-4-10. Control and supervision.

The supervision of the Brush Memorial Cemetery shall be by direction of the City Council, through the City Administrator, who will employ such persons as may be necessary for the care and maintenance of the Cemetery. (Prior code §8-1)

Sec. 11-4-20. Rules and regulations.

The City Council shall adopt, by resolution, rules and regulations not inconsistent with the provisions of this Article governing the Cemetery, which shall be on file and available for public examination in the office of the City Clerk. Failure to comply with any rule or regulation promulgated by resolution shall be deemed a violation of this Code. (Prior code §8-2)

Sec. 11-4-30. Duties of City Administrator.

It shall be the duty of the City Administrator or his or her designee to provide for the digging of graves, supervising funerals, setting monuments or markers, supervising all decorations of lots and graves, planting and caring for all vegetation, maintaining and repairing driveways and walks, endeavoring to prevent the defacing, destruction or damage of monuments, markers and other property in the Cemetery, and carrying out and enforcing this Code and rules and regulations of the Cemetery. (Prior code §8-3; Ord. 774-06 §1)

Sec. 11-4-40. Maps and records; burial permits.

It shall be the duty of the City Clerk to keep a map and the records of the Cemetery and issue required permits. The City Clerk shall require applications for all burial permits to be made at least twelve (12) working hours before the funeral and shall not issue permits for funerals less than one (1) hour apart. (Prior code §8-4)

Sec. 11-4-50. Applications for burial spaces; contract for sale of spaces.

The application for the purchase of burial spaces shall contain a description of the space, purchase price and method of payment, and when executed by the purchaser and the City, it shall become a binding contract of purchase and sale. Upon payment of the full purchase price to the City, a cemetery deed by the City, executed by the Mayor conveying the space free and clear of all encumbrances, shall be executed and delivered to the purchaser. (Prior code §8-5)

Sec. 11-4-60. Price of spaces.

The sale price of grave spaces, including perpetual care of all spaces, shall be set by resolution adopted by the City Council from time to time. (Prior code §8-6)

Sec. 11-4-70. Transfer, assignment or conveyance of property rights.

No transfer, assignment or conveyance of any property right or interest in the Cemetery shall be valid without the consent in writing of the City. An affidavit signed by participating parties shall accompany requests for transfer of ownership, assignment or conveyance of property deviating from the original deed. The City shall not consent to the transfer of any property right or interest in the Cemetery upon which there is any indebtedness due the City. (Prior code §8-7)

Sec. 11-4-80. Selling lots or spaces for resale.

The City shall not sell to or permit the purchase of a lot or space by a funeral service representative or other person for speculation or economic gain. (Prior code §8-8)

Sec. 11-4-90. Interments.

Application and permission for interment, interment charges and payment and permissible use of burial space shall be governed by the rules and regulations of the Cemetery. It shall be conclusively presumed, unless written notification to the contrary is filed with the City Clerk, that the space in the Cemetery is being acquired for family use, and the City shall have the right, without

obtaining any interment permit from the owners, to allow interment in such space of any member of the family of the owners. (Prior code §8-9; Ord. 774-06 §1)

Sec. 11-4-100. Erection of monuments, markers and vaults.

All monuments or markers shall be placed so that they do not extend beyond the space lines, shall be made of granite, marble or real bronze and shall be erected upon a foundation placed by the City. Erection, construction, specifications, materials and placing of markers, foundations, monuments, vaults and corner stones shall be governed by the rules and regulations of the Cemetery. (Prior code §8-10)

Sec. 11-4-110. Fences, railings and decorations; planting vegetation.

Fences, railings, hedges and other obstructions and decorations, other than flowers, vases, wreaths and flags, are prohibited, and will be removed without notice. All decoration of lots or spaces and planting of vegetation within the Cemetery shall be under the control, supervision and direction of the City Administrator, who will be governed by the rules and regulations of the Cemetery. (Prior code §8-11)

Sec. 11-4-120. Fees for interment or disinterment.

All fees associated with interring and disintering bodies shall be set by resolution of the City Council from time to time. (Prior code §8-12)

Sec. 11-4-130. Perpetual care by City.

All grave spaces in the Cemetery shall be perpetually cared for by the City. (Prior code §8-13)

Sec. 11-4-140. Perpetual care fund.

The Finance Officer shall place the money derived for perpetual care in a separate fund to be known as the Cemetery Perpetual Care Fund, and shall invest the money of the fund in securities or insured deposits as approved by the City Council. The interest derived therefrom shall be expended in caring for the lots thus endowed, and the principal on deposit in said fund may be expended only for improvements of a capital nature upon approval of the City Council by resolution, in present or future cemetery grounds. In addition to the Cemetery Perpetual Care Fund, any gifts received from donors for the benefit of the Cemetery shall be separately accounted for and expended as the donor provides, or if there is no such donor provision, as the City Administrator shall determine. (Prior code §8-14; Ord. 774-06 §1)

Sec. 11-4-150. Prohibited acts.

No person visiting the Cemetery shall:

- (1) Drive or ride any machine or animal on lots, lawns or walkways except City-operated maintenance equipment.
- (2) Drive an automobile or other vehicle in excess of fifteen (15) miles per hour or such lesser speed as shall be prudent under the conditions and circumstances then existing.

- (3) Litter or discard any object.
- (4) Cause any employee to do work for lot owners without an order from the City or give to any employee any valuable consideration to do work for a lot owner.
- (5) Do work on the grounds, except by permission of the City.
- (6) Perform or cause to be performed a burial in the Cemetery on Sunday without a special permit therefor issued by the City or written recommendation of the health officials.
- (7) Hunt or in any way disturb the birds or fowl or discharge any firearms, fireworks or other explosive devices within or over any portion of the Cemetery or around the gates, fences or roads adjoining the same, except as part of military funerals or similar occasions.
- (8) Take any animal or permit any animal to be taken into the Cemetery.
- (9) Deface, damage, destroy or injure any graves, monuments, markers or other property or thing in the Cemetery. (Prior code §8-15)

Sec. 11-4-160. Closing driveways; establishing grades.

The City shall have the right to close any walk or driveway in the Cemetery, heretofore existing or hereafter constructed, and to establish grades. (Prior code §8-17)

Sec. 11-4-170. City liability for acts of trespassers.

The City shall not be liable for any act of lot owners, visitors, licensees or trespassers within the Cemetery or for any damage to persons or property while within the Cemetery. (Prior code §8-18)

Sec. 11-4-180. Penalty.

Any person who violates any provision of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code §8-16; Ord. 774-06 §1)