

CHAPTER 8A-02. STREETS AND PUBLIC WAYS

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8A-02-010. Supervision And Duties.

The Public Works Director shall have general supervision of all the streets, rights of way, bridges, sidewalks and other public ways that lie within the corporate boundaries of Fruit Heights City. The public works superintendent shall comply with and enforce the provisions of this Chapter and every other ordinance which shall relate to the maintenance and use of streets, rights of way, culverts, ditches, bridges, curbs, gutters, sidewalks, drains, waterways or any other public ways. The public works superintendent shall supervise, inspect and control the construction, maintenance and/or repair of all streets, rights of way, culverts, ditches, bridges, curbs, gutters, sidewalks, drains, waterways and other public ways within the boundaries of Fruit Heights City. The powers and duties of the public works superintendent, as specified herein, may be delegated by the public works superintendent to authorized designees. When used in this Chapter, public works superintendent shall include the reference to such authorized designees.

8A-02-020. Standards And Specifications.

The City Council, upon the recommendation of the City engineer and public works superintendent, shall establish and adopt certain standards and specifications for the construction of streets and public improvements within the City ("standards and specifications"). Any installation, construction, alteration, repair, maintenance or other work on the streets and public improvements within the City, or within any public right of way, shall comply with the standards and specifications.

8A-02-030. Street Excavations.

Prior to commencement of any excavation work within the public right of way, an excavation permit shall be obtained from the City in accordance with the provisions of Chapter 5 of this Title. It shall be unlawful for any person to perform such excavation work within the public right of way without obtaining an excavation permit from the City. All excavation work shall comply with the standards and specifications adopted by the City and the provisions of Chapter 5 of this Title.

8A-02-040. Franchise Required.

Except as otherwise expressly provided herein or exempt under federal or state law, any person or entity desiring to install improvements or facilities within any public right of way under the jurisdiction of the City shall be required to enter into a franchise agreement or other acceptable rights of way use or license agreement with the City authorizing the use of the public right of way for such improvements or facilities and specifying the terms and conditions of such use of the public right of way. It shall be unlawful

for any person to place, construct or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, utility or any other structure, facility or object of any kind or character within the public rights of way within the jurisdiction of the City without obtaining such a franchise agreement or other acceptable rights of way use or license agreement from the City in accordance with the provisions of this section. Telecommunications improvements or facilities installed within the public rights of way under the jurisdiction of the City shall be governed by the provisions of Chapter 6 of this Title, regarding telecommunications systems. Regulation of the City rights of way as provided herein shall be subject to and comply with the provisions of Utah Code Annotated Title 72, Chapter 7, as amended, entitled the Protection of Highways Act.

8A-02-050. Conformance With Application.

No person shall misrepresent any material fact in any application for an excavation permit, and no person shall excavate on, into, or under any street, sidewalk or other public way in excess of the dimensions listed on the application for an excavation permit for such excavation. Any violations of any provision of this Chapter shall be a class B misdemeanor punishable by fine, imprisonment or both, as prescribed by the applicable statutes of the state of Utah. In addition to this criminal penalty, the City attorney may bring suit in an appropriate court to enjoin any person from excavating without a permit and/or seek any other legal or equitable relief for violation of this Chapter. The provisions of this Chapter shall not apply to excavations of any kind within any City streets or rights of way which are conducted by City personnel under the direction of the City Manager.

8A-02-060. Restrictions On Road Use Because Of Adverse Conditions.

The City Council may, by resolution or ordinance, prohibit the operation of vehicles upon any City street or impose restrictions as to weight for a total period of not to exceed ninety (90) days in any one calendar year when any said highway or street, by reason of deterioration, rain, snow or any other climatic or adverse conditions, will be seriously damaged or destroyed, unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced. Upon passage of such a resolution or ordinance, the City Council shall erect or cause to be erected and maintained, signs prescribing the weight limitation as set forth in the ordinance or resolution. It shall be unlawful for any person to drive a vehicle on such a posted highway with a weight in excess of the posted limit.

8A-02-070. Restrictions On Road Use By Oversized Vehicles And Loads.

It shall be unlawful for any person to operate any vehicle standing by itself and/or containing a load in excess of twelve feet (12') in height above the road surface on any City street without first obtaining a permit from the City.

8A-02-080. Signs.

The requirements of Title 14A of this code shall apply to all signs within or over any street or public way.

8A-02-090. Sidewalk Construction, Maintenance And Use.

(a) Construction: All sidewalks shall be constructed in accordance with specifications and regulations as provided in Section 8A-02-020 of this Chapter. It shall be unlawful for any person, either as owner, agent, contractor or employee, to construct any sidewalk in Fruit Heights City unless such sidewalk be constructed to lines and grades approved by the City. No permanent sidewalk shall be constructed within the City without having first obtained from the City a permit as required in Section 8A-02-030 of this Chapter. The acceptance of such permit shall be deemed an agreement on the part of such person to construct the sidewalk in accordance with specifications and grades approved by the City.

(b) Sidewalk Maintenance And Repair: All owners of real property abutting or fronting upon any street, highway or alley within the City are required to keep the public sidewalks, and private drive

approaches connecting with the public sidewalk across or immediately abutting their property in good order and repair. Each such owner shall be liable to the City for all losses to the City or recoveries from the City for damages to persons or property caused by such owner's failure, or that of his agents, to repair and keep in good order and reasonably safe all such sidewalks abutting or fronting owner's property upon any street, highway or alley within the corporate limits of the City.

(1) It shall be the responsibility of each owner to notify the City when repair of a public sidewalk is needed. In addition, the City may, on its own initiative or at the request of others, determine if sidewalk repairs shall be performed. Conditions to be considered by the City to decide if a sidewalk shall be repaired pursuant to this section shall include, but not be limited to, any one of the following:

- (A) Broken sidewalk panels;
- (B) Sidewalk panels having different elevation at the junction thereof;
- (C) Sidewalk panels with a deteriorated surface;
- (D) A finding that the condition of the sidewalk is hazardous for anticipated users thereof; or
- (E) A finding that inclusion of the proposed repairs in a special improvement district is not practical or desirable.

(2) It shall be the sole prerogative of the City to determine if repairs shall be performed. Upon rendering of such determination, the owner of real property bounding, abutting, upon or adjacent to a sidewalk which is to be repaired pursuant to this section shall pay a portion of the costs of repair as determined by the City public works superintendent. It shall be initially presumed that the proper allocation of costs will be fifty percent (50%) payment by the abutting owner and fifty percent (50%) by the City; however, this allocation may be modified by the public works superintendent based upon the facts of each particular case and any applicable regulations of the City. If the sidewalk has been damaged by the acts or omissions of the abutting owner or his agents, etc., the entire cost of such damage shall be paid by the owner. All costs not allocated to the property owner shall be paid by the City.

(3) The City public works superintendent, or his designee, shall, within thirty (30) days of any request or upon his own initiative, determine as described in subsection (b)(2) of this section, if the sidewalk shall be repaired and shall make the allocation described in subsection (b)(2) of this section between the landowner and the City of the reasonable costs of repair of defective sidewalk.

(4) The owner(s) obligation of payment described in subsection (b)(2) of this section shall not commence until thirty (30) days after the City has mailed written notice (unless the same has been waived in writing) to the owner of real property, which notice shall contain not less than the following:

- (A) A description of the sidewalk which has been or is proposed to be repaired and the reason therefor;
- (B) The cost of the repair and the allocation of that cost between the property owner and the City; and
- (C) A statement that the property owner may appeal any claim by the City for payment and a description of the time and manner in which the same may be done.

(5) Any person directly affected by a decision of the City public works superintendent, or his designee, may appeal the same within thirty (30) days after the mailing date of the written notice described in subsection (b)(4) of this section. Appeals shall be in writing and filed with the City recorder requesting that the City Council hear the matter. The City recorder shall then put the matter on the next available City Council agenda and notify the property owner of the date and time of the hearing. The appeal hearing shall be informal and need not be reported. At such hearing, the owner may present such evidence and argument as is pertinent to appealing the decision of the City public works superintendent. The City Council shall also permit the presentation of evidence or argument by the City public works superintendent and other interested parties. Thereafter, within not more than fifteen (15) days, the City Council shall render its written decision, a copy of which shall be mailed to or served upon the property owner. The property owner shall be subject to the terms of the decision.

(6) The City may agree to reasonable terms, including the payment of interest, for the payment of the share of costs to be paid by the property owner. The City may bring a civil action and collect any unpaid sum, including interest, costs and a reasonable attorney fee which is owed pursuant to this section. In addition, should the property owner fail to make payment to the City for the property owner's share of the costs of repair, said portion of the costs of repair shall constitute a lien against the real property of owner. If such lien is not satisfied within sixty (60) days after being filed of record, the City may seek to foreclose the lien in the manner provided in Utah Code Annotated Title 38, for the enforcement of mechanics' liens.

(7) The purpose of this section is to avoid liability to Fruit Heights City and to the owners of private property because of defective sidewalks.

(8) This section shall not apply to the new construction of sidewalks in subdivisions or other places within the City. This section shall not prohibit the repair of sidewalks for reasons other than those described in subsection (b)(1) of this section if the same is done at the property owner's sole expense and according to applicable law and City specifications.

(c) Obstructions In Street Or Public Way: It shall be unlawful for any person owning, occupying or having control of any premises to place or permit to be placed on or in or over the sidewalk, parking area, gutter, street or any other public way next to such premises:

(1) Any building materials, dirt, refuse, dead trees, tree stumps, fencing, lumber, merchandise or any other thing which will obstruct such public streets, gutters, parking and areas, sidewalks or any other public way except as expressly authorized by ordinance and for the two (2) week period prior to spring cleanup;

(2) Any recreational equipment or facilities, including basketball standards, backboards, nets or other sports equipment or structures of any kind which will obstruct such public streets, gutters, parking areas, sidewalks or any other public way, or which require persons to occupy the street or public way in order to use such structures or facilities.

(d) Snow Removal: It shall be the duty of the owner, occupant, lessor or agent of any property abutting on any sidewalk to remove or cause to be removed from such paved sidewalk all hail, snow or sleet falling thereon, within a forty eight (48) hour period after the hail, snow or sleet has ceased falling.

(e) Sweeping Of Business Sidewalks: It shall be the duty for the owners or occupants of places of business within the City to cause the sidewalks abutting thereon to be kept swept or cleaned.

(f) Driving, Riding On Sidewalks: It shall be unlawful for any person to drive a self-propelled vehicle, other than snow removal equipment, or to ride any animal upon any sidewalk, except at established crossings.

(g) Obstructing Free Passage: It shall be unlawful for any person or persons to congregate, loiter or remain standing, lying or sitting on any sidewalk for a longer period than two (2) minutes in such a manner as to obstruct the free passage of pedestrians thereon, or to willfully remain standing, lying or sitting thereon for more than one minute after being requested to move by any police officer, or to willfully congregate or remain on any sidewalk in such a manner as to obstruct the free passage of any person or vehicle into or out of property abutting upon the sidewalk or any property having access to such sidewalk.

8A-02-100. Frontage Maintenance.

(a) Maintenance. It shall be the duty of each owner of real property abutting or fronting upon any street, highway, or alleyway within the City to maintain the frontage area adjacent to their property out to the edge of the road asphalt in a safe and clean condition and to keep the frontage free of weeds and debris at all times. It shall be the duty of each owner of real property abutting or fronting upon any street, highway or alley within the City to prevent any soil, sand, silt or debris from migrating from or leaving the owner's property into any street, highway or alley adjacent thereto

(b) Tree And Vegetation Trimming: All property owners and/or occupants shall trim all trees and vegetation within the parkways and sidewalks abutting their property, or between the street and the front of their property. Trees shall be trimmed to a height of ten feet (10') above the curb, on the curbside, or twelve feet (12') above the street, on the street side. Other vegetation shall be trimmed back behind the curb on the street side or behind the sidewalk on the park strip and house sides. Trimming will allow snow removal equipment to pass without damage to the snow removal equipment, and to also allow for proper clearing of snow, sleet and/or ice from curb to curb or the full width of the street.

(c) Inspections: The city may from time to time inspect tree height and vegetation growth on or over streets and sidewalks of real property for violations of this chapter.

(d) Obstructions; All property owners and/or occupants shall keep all curbs and gutters abutting their property and streets in front of their property free from obstructions including trees and other types of vegetation that will hinder the removal of snow, sleet and ice from the street. Any obstruction that will hinder the removal of snow, sleet and ice from the curb or street shall be deemed unlawful.

(e) Mailboxes: In order to minimize the possibility of being struck by snow removal vehicles, the front most part of the mailbox shall not extend into the street farther than the heel of the innermost part of the curb. Where no curb exists, the front most part of the mailbox shall be set at least two feet (2') from the edge of the pavement. The city shall not be responsible for damage to mailboxes which are improperly located or which are damaged by the force or weight of snow thrown by snowplows.

(f) Parking Prohibited: In order to reduce the number of obstructions which hinder the efforts of city snow removal crews, it shall be unlawful to park a vehicle, recreational vehicle, or any equipment on a public street within city boundaries at any time whenever snow is accumulating, or at any time between the hours of twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M. from November 1 to April 1, unless by special permission from city management.

(g) City Refusal To Plow: It shall be the policy of the city that snow removal crews will be instructed to avoid plowing those areas of the city streets where obstructions (vehicles, trailers, other objects, etc.) exist which have the potential of damaging snow removal equipment, or being damaged by snow removal equipment.

8A-02-110. Vacation Of Street Or Public Right of Way.

(a) Petition For Vacation, Narrowing Or Change Of Name Of Street Or Alley; Hearing; Ordinance: Upon payment of a fee to be set by the City Council and upon petition by a person owning a lot in the City, praying that a street or alley in the immediate vicinity of such lot may be vacated, narrowed or the name thereof changed, the governing body of the City may, upon hearing, and upon being satisfied that there is good cause for such change of name, vacation or narrowing, that it will not be detrimental to the general interest, and that it should be made, declare by ordinance such street or alley vacated, narrowed or the name thereof changed. The governing body may include in one ordinance the change of name, or the vacation, or the narrowing of more than one street or alley.

(b) Vacation, Narrowing Or Change Of Name Of Alley Without Petition; Ordinance: When there are two (2) or more streets or alleys of the same name in the City, the governing body may, by ordinance and without petition thereof, change the name of any such street or alley, so as to leave only one to be designated by the original name. When, in the opinion of the governing body of the City, there is good cause for vacating or narrowing a street or alley, or any part thereof, and that such vacation or narrowing will not be detrimental to the general interest, it may, by ordinance, and without petition thereof, vacate or narrow such street or alley, or any part thereof.

(c) Notice Required; Exception: Notice of the intention of the governing body to vacate any street or alley, or part thereof, shall in all cases be given as provided in subsection (d) of this section, except when there is filed with the governing body written consent to such vacation by the owners of the property abutting the part of the street or alley proposed to be vacated, in which case such notice shall not be required.

(d) Notice; How Given: No street or alley shall be so vacated, unless notice of the pendency of the petition and prayer thereof, and the date of the hearing thereon, if such petition is filed, or of the intention of the governing body of the City to vacate, and the date of the hearing on such question if no petition is filed, be given by publishing in a newspaper published or of general circulation in the City once a week for four (4) consecutive weeks preceding action on such petition or intention, or, where no newspaper is published in the City, by posting the notice in three (3) public places therein four (4) consecutive weeks preceding such action, and by mailing such notice to all owners of record of land abutting the street or alley proposed to be vacated addressed to the mailing addresses appearing on the rolls of the county assessor of Davis County. Action thereon shall take place within three (3) months after completion of the notice.

(e) Effect Of Vacation Or Narrowing Of Street Or Alley: The action of the governing body vacating or narrowing a street or alley which has been dedicated to public use by the proprietor, shall operate to the extent to which it is vacated or narrowed, upon the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the relinquishment of the City's fee title therein by the governing body, but the right of way and easements therein, if any, of any lot owner and the franchise rights of any public utility shall not be impaired thereby.

8A-02-120. Street Lighting.

The City may, but shall not be obligated to, operate and maintain street lighting within Fruit Heights City as deemed appropriate by the City Council. The City shall also have the right to contract with utility companies and/or other entities to provide operation and/or maintenance of street lighting within the City.

8A-02-130. Cleaning City Streets And Facilities.

(a) Single Lot Or Parcel Residential Construction: In order to reduce the amount of debris and materials impacting City streets and entering the City's storm drain system, City streets should be cleaned periodically, together with the storm sewer facilities of the City receiving stormwaters from the street system. During construction periods, including new construction and remodeling, the City will

provide street sweeping once each month. No dirt ramps shall be constructed over curbs during construction periods. In order to fund the cleaning and maintenance, the City Council, by resolution, may adopt and require payment of fees for street sweeping and/or related services. All fees adopted by the City Council may be amended from time to time as determined appropriate in the discretion of the City Council. Required street cleaning fees shall be paid to the City by the owners of real property abutting any street or public way within the City prior to the issuance of a building permit for any new construction and/or remodeling.

(b) Multi-Lot Residential Construction And Nonresidential Construction: For all new development, developers of multi-lot residential properties and owners of nonresidential properties within the City shall be responsible to clean paved streets within any subdivision and/or nonresidential development, together with those portions of paved streets located up to one thousand feet (1,000') off site from said subdivision and/or development. Cleaning shall begin at the commencement of any such development and shall continue until the beginning of the warranty period. Maintenance shall include cleaning of inlet boxes and sweeping of paved streets. An improvement bond in a form satisfactory to the City shall be required to be posted by the developer or owner in an amount estimated by the City engineer to be adequate to cover the cost of such cleaning and maintenance during construction and development periods. Projects having streets which are not cleaned and maintained may be halted until compliance occurs. No dirt ramps shall be constructed over curbs during construction periods. In the event the required cleaning is not provided, the City may, at its discretion, call the bond at any time and utilize the proceeds therefrom to pay for cleaning. Calling of the bond shall not excuse the developer or owner from providing the required cleaning specified hereunder. In the event the bond proceeds are insufficient to provide the necessary cleaning, the developer or owner shall be liable for any deficiency and administrative expenses incurred by the City in performing the cleaning.

8A-02-140. Bridge And Culvert Size.

(a) Standard: It shall be the policy of the city that all future repairs and new construction of waterway openings on bridges and culverts (60 inch diameter or greater) meet the standard that they are capable of passing a once in 25-year flood on the average.

(b) Conformance: The city engineer is directed to conform all future repairs and new construction of bridges and culverts to the above described standard and conform his specifications accordingly using the most appropriate method based on the size, shape and slope of the drainage area.

8A-02-150. Violations.

It shall be a class B misdemeanor to violate any provision contained in this chapter. In addition to other remedies available at law, upon any violation of this section, the City zoning administrator or the City building inspector shall have the right to stop any construction or activities upon the owner's property which may be violating this section by issuing a stop work order, citation or other directive to the property owner.. A property owner shall be notified of any violation of this chapter and given a reasonable amount of time to remedy the violation. If the property owner does not remedy the violation within the given time, the City may at its discretion conduct removal of vegetation or other debris or ensure the necessary remedy is completed and will provide the owner with an itemized statement of cost. The property owner may exercise the same appellate rights as described above in section 8A-02-090(b)(5-6).