

Chapter 25

STREETS, SIDEWALKS AND MISCELLANEOUS PUBLIC PLACES*

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ARTICLE I. IN GENERAL

Sec. 25-1. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8.

Sec. 25-2. Obstruction to sidewalks--Generally.

It shall be unlawful for any person in this city to place, keep or suspend any merchandise on or over the sidewalks, in front of any house or tenement or upon the sidewalk, to expose or offer any merchandise or other property for sale at auction or otherwise, or to obstruct any sidewalk by placing or leaving or causing to be placed or left thereon any vehicle, chicken coop, coal box, barrel, table, box or other articles or things whatever. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than one (1) nor more than ten dollars (\$10.00). Each act as well as each day's violation of this section thereof shall be deemed a separate and distinct offense. Each member of a firm, partnership or corporation shall be deemed guilty and prosecuted as other individual persons. Notwithstanding the provisions contained in this section, a citywide sales promotional sidewalk sale may be held after a written permit has been obtained from the city council; such permit shall specify the days and hours such sidewalk sales are to be held. Any merchant or merchants may make an application for a sales permit to the city council in writing stipulating the time for such promotional sale. (Code 1963, Ch. 11, art. 1, § 1 [Ord. No. 67-11, § 1, 5-8-67])

Sec. 25-3. Same--Exception.

Section 25-2 shall not apply to any merchant or trader placing packages or merchandise

***Charter reference**—General powers relative to streets, §§ 10, 11, 124.

Cross references—Railroads, Ch. 23; traffic, Ch. 28.

State law reference—General powers with reference to streets, sidewalks, etc., Vernon's Ann. Civ. St. arts. 1105b, 1175.

which he may be receiving or sending away upon the sidewalks, if the same do not occupy more than one-half of the width thereof, nor remain there more than three (3) hours, nor to any merchant or trader, occupying a house, and exhibiting samples for show, only upon or above the inside line of the sidewalk within a space not exceeding two (2) feet. (Code 1963, Ch. 11, art. 1, § 2)

Sec. 25-4. Sidewalk construction--Generally.

Sidewalks shall be required for all new residential and commercial buildings, and whenever any construction, addition or structural alteration on any building or other structure where a permit to do so is required by the provisions of this Code on any property in the city on or abutting a public street(s), and no certificate of occupancy may be issued until the provisions of this Code are met. If no sidewalk(s) exists, or existing sidewalk(s) abutting a public property do not conform to the standards, specifications, details and designs provided for and established by the director of public works, such sidewalk(s) shall conform to the standards set forth by this Code and the Americans with Disabilities Act. (Ord. No. 93-26, § I, 4-13-93)

Sec. 25-5. Same--Location.

(a) All required public sidewalks shall be located on public property (right-of-way). Sidewalks shall be a minimum of four (4) feet wide and located not more than six (6) inches from the property line abutting a public street.

(b) Sidewalk elevation shall be not less than the top elevation of the existing curb, nor more than twenty-four (24) inches above the height of the street curb.

(c) Obstructions such as, but not limited to, fire hydrants, telephone poles, and street signs, shall not be located within a sidewalk, unless approval of such is obtained from the director of public works or his designate.

(Ord. No. 93-26, § I, 4-13-93)

Cross reference(s)--Construction, alteration, etc. of curbs and gutters, § 25-76 et seq.

Sec. 25-6. Same--Alternate design/location.

An alternate design and/or location of sidewalk(s) may be submitted for approval by the director of public works, where there are unusual and practical difficulties in carrying out the provisions set forth by this code. The irregular shape of a lot, unique topography, and other atypical conditions may be considered by the director of public works, provided the alternate design/location will not adversely affect any adjoining property or the general public. (Ord. No. 93-26, § I, 4-13-93)

Sec. 25-7. Same--Exemption.

Upon the approval of the building official or his designee, and upon evidence that at least fifty (50) percent of the block on the same side of the street in which a person desires to build has improvements on it without sidewalks, then such person may be exempted from the provisions of sections 25-4 through 25-7. (Ord. No. 93-26, § I, 4-13-93)

Secs. 25-8--25-30. Reserved.

ARTICLE II. EXCAVATION, CONDUITS, ETC.

DIVISION 1. GENERALLY

Sec. 25-31. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8.

Sec. 25-32. Supervision of work.

Work coming under this article must be performed strictly in accordance with the requirements of the city manager or his designee and not otherwise; and shall be performed under his supervision and in such manner and at such times and within such time as the city manager or his designee shall prescribe and approve. The excavations and the depth, grade and location of any pipes, mains, laterals, sewer or wiring shall be as prescribed by the city manager or his designee in each case. (Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-33. Barricades.

The permittee under this article shall erect barricades around the area being excavated in accordance with the requirements of the Manual of Uniform Traffic-Control Devices. (Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-34. Compliance.

(a) All excavations made within the right-of-way of any street or alley or across any square or public grounds within the city shall be made in accordance with the provisions of this article.

(b) All excavations, backfills and repair in streets and alleys shall be in accordance with the drawings, respectively, appearing on exhibit "A."
(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-35. Classification of streets.

Streets and alleys shall be classified into three (3) categories:

- (1) *Class One*--Asphalt-paved streets and alleys.
- (2) *Class Two*--Concrete-paved streets and alleys.
- (3) *Class Three*--Unpaved streets and alleys.

Such classifications are further described by a drawing shown as exhibit "A," which is hereby incorporated in this article for all intents and purposes. (Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-36. Backfilling.

(a) If any excavation is made in any street or alley that is paved or unpaved, material from the excavation may be used for earth backfill, providing that such material is free from vegetation, mud and other debris. It shall be placed in the trench in six-inch to eight-inch layers.

This material shall be thoroughly tamped or compacted by a suitable mechanically operated tamp to ensure compaction to a proctor of ninety (90) percent or better. All backfilling of trenches shall be done as described and shown on exhibit "A" and to the satisfaction of the city manager or his designee.

(b) Where excavation is made in an asphalt- or concrete-paved area, all edges shall be cut to a straight line before concrete slab is poured or asphalt surface is applied. Backfilling where curb and gutter exists shall be backfilled and compacted from back of curb to back of curb. In streets without curb and gutter, backfilling and compaction shall be from center of ditch to center of ditch.

(c) When excavation is made in an area between curblines and sidewalk line, excavation material may be used for backfill, material shall be thoroughly compacted and area finished in a manner equal to that as originally existed.

(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-37. Resurfacing.

Where excavation is in an improved area, all edges shall be cut to a straight line before concrete slab is poured, or asphalt surface is applied. After backfill has reached maximum compaction, material shall be removed to a depth as specified below and an area extending six (6) inches beyond area of excavation shall be excavated to the same depth and concrete shall be placed over area so excavated:

- (1) If area is now improved as in Class One, with any type of asphalt surfacing, excavation shall be made to a depth of six and one-half (6½) inches and concrete slab shall be five (5) inches in thickness, with one-and-one-half-inch asphalt surfacing.
- (2) If area is now improved as in Class Two with concrete pavement, the concrete slab shall be the same thickness and reinforced as the original pavement.
- (3) In all other streets, where unpaved or surfaced with gravel, backfill shall be made in the same manner as provided for other areas under their classification, but no concrete slab shall be required.
- (4) When excavation is made in paved or unpaved streets or alleys, all unused excavated material shall be removed within twenty-four (24) hours after backfill is completed.

(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-38. Work at expense of applicant.

All such work shall be performed at the sole expense of the person making such application, and without expense to the city. If the work is not completed within the time limit set by the city manager or his designee, the city may have the work done by an independent contractor. All such work shall be chargeable to the permittee and no permit for such cuts shall be issued until such time as the city is reimbursed such expense by the permittee. (Code 1963, Ch. 11, art. 2, § 5 [Ord. No. 81-24, § 2, 6-23-81])

Secs. 25-39--25-50. Reserved.

DIVISION 2. PERMIT

Sec. 25-51. Required.

No person shall dig any holes or trenches upon, through, or beneath the streets, avenues, alleys, squares, and public grounds of the city, nor lay any pipes, mains, laterals, or any connecting or service pipes, nor any underground sewer or underground wiring along, across or beneath the streets, avenues, alleys, squares and public grounds of the city, without first having filed with the city manager or his designee an application and plan in writing to do so and without having first obtained a formal written approval of such application and map and a permit to perform such work. (Code 1963, Ch. 11, art. 2, § 1(a) [Ord. No. 71-17, § 1, 4-26-71])

Sec. 25-52. Utility companies.

A permit from the city manager or his designee shall be required of all utility companies to set utility poles in any street or alley, and each utility company shall once each calendar month make a report in writing to the city manager or his designee, giving the location of each utility pole which it has set in the right-of-way of any and all streets and alleys in the city during the preceding calendar month. (Code 1963, Ch. 11, art. 2, § 1(b) [Ord. No. 71-17, § 1, 4-26-71])

Sec. 25-53. Emergency work.

In cases of emergency that may arise on holidays or outside of prescribed working hours of city hall offices, utility companies may cut or puncture the right-of-way of streets and alleys without first getting a permit to do such work, provided that where such cuttings or punctures are made by any such utility company in the right-of-way of a street or alley, such company shall apply for and obtain a permit for such work on the first working day after the work is done. (Code 1963, Ch. 11, art. 2, § 1(c) [Ord. No. 71-17, § 1, 4-26-71])

Sec. 25-54. Application.

Application for a permit required by this division shall be submitted in such form as the city manager or his designee may prescribe from time to time, and, insofar as applicable, shall follow generally the requirements prescribed by the city for applications for building permits, in addition to any other information prescribed by the city manager or his designee. Such application shall be accompanied by a map or plan of such proposed work. (Code 1963, Ch. 11, art. 2, § 2)

Sec. 25-55. Bond.

No permit shall be issued under this division to any person until such person shall have filed a bond in the sum of two thousand dollars (\$2,000.00) with a good and sufficient surety with the city secretary. Such bond shall be effective as to any permit for a period of one (1) year after such permit is issued and shall cover all permits issued to the principal of such bond as long as such bond is on file. The form of the bond shall be as follows:

STATE OF TEXAS
KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BELL

That we, _____ as principal and _____ as surety, are held and firmly bound unto the City of Killeen, Texas in the penal sum of \$2,000.00 to the payment of which well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns by these presents:

The condition of the above obligation is such that, whereas the above principal has obtained a permit and/or permits to puncture, open, dig or excavate a street, alley, highway, park or public ground within the City of Killeen, Texas, in accordance with an application and/or applications heretofore filed by him with said City of Killeen:

Now, if the above bound principal, his heirs, executors, administrators, successors, and/or assigns, shall well and truly keep, do and perform all laws and ordinances of the City of Killeen, regulating excavations in and puncturing of streets, alleys, highways, and/or public grounds of the City of Killeen and will refill said excavations or punctures according to the ordinances and specifications prescribed by the City of Killeen, and will replace all pavement as required by said specifications and will hold the City of Killeen harmless from all damages that may occur by reason of said punctures, holes or excavations made by said principal, for a period of one year from the date each said permit is issued, then this obligation shall be null and void; otherwise, to be and remain in full force and effect. Successive recoveries may be made on this bond and one or more recoveries thereon shall not exhaust or terminate this bond.

Witness the execution hereof, on this the _____ day of _____, _____.

Surety

Principal

Approved this the _____ day of _____, _____.

City Secretary

(Code 1963, Ch. 11, art. 2, § 3)

Secs. 25-56--25-75. Reserved.

ARTICLE III. CURBS AND GUTTERS

DIVISION 1. GENERALLY

Sec. 25-76. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8.

Sec. 25-77. City engineer's decisions.

The decision of the city engineer with reference to any work done under the provisions of this article and with reference to all materials shall be fully binding on all parties in interest, and such decision shall be in all cases strictly in keeping with the intent and purpose of this article and free from all bias and unfairness. (Code 1963, Ch. 11, art. 4, § 6 [Ord. No. 69-42, § 6, 8-11-

69])

Sec. 25-78. Appeals to board of adjustment and appeals.

When any person coming within the provisions of this article shall consider that the application of this article is calculated to manifest injury to the property involved or its use, do to peculiar structural conditions of the property or its improvement, such interested person may appeal to the board of adjustments and appeals established by the Standard Building Code, which board is here vested with jurisdiction to hear the same and issue proper orders and directions to the city engineer based upon its findings. (Code 1963, Ch. 11, art. 4, § 7 [Ord. No. 69-42, § 7, 8-11-69])

Sec. 25-79. Notice of appeal; hearing.

Notice of appeal under this article must be in writing, by noting the same upon any instrument furnished by the city engineer and signed by the person requesting the appeal. Upon such appeal having been made, the building official shall notify the board of adjustments and appeals and, upon a date being set for the hearing, the building official shall notify the appellant and the city engineer of the time and place of such hearing. (Code 1963, Ch. 11, art. 4, § 8 [Ord. No. 69-42, § 8, 8-11-69])

Sec. 25-80. Supervision generally.

All construction, reconstruction, alteration, removal or replacement of curbs, gutters or street curbs on any public property within the city shall be under the supervision of the city engineer. (Code 1963, Ch. 11, art. 4, § 2 [Ord. No. 69-42, § 2, 8-11-69])

Sec. 25-81. Applicable plans and specifications.

All construction, reconstruction, alteration, removal or replacement of curbs, gutters and street curbs on any public property within the city shall be in accordance with the plans and specifications as required by the city, specifically with the plans and specifications of the "Regulations for Access Driveways to State Highways," placed into effect in accordance with instructions contained in Texas Highway Commission Minute Order No. 45920, dated May 1, 1959, and any amendments thereto. Such regulations, although written to apply to state highways, shall apply to all streets and all curbs, gutters and street curbs on any public property within the city. (Code 1963, Ch. 11, art. 4, § 3 [Ord. No. 69-42, § 3, 8-11-69; Ord. No. 71-36, § 1, 7-26-71])

Secs. 25-82--25-90. Reserved.

DIVISION 2. CONSTRUCTION, ALTERATION, ETC., PERMIT

Sec. 25-91. When construction, reconstruction, alteration, etc., required; permit.

Whenever any application is made to the building official by any person for a permit to make any construction, addition or structural alteration on any building or other structure, where a permit so to do is required by the provisions of this code or city ordinance on any property in the city on or abutting a public street, and the existing curbs, street curbs and gutters abutting such

property do not conform to the standards, specifications, layout, details and designs provided for and established by the city, copies of which are attached hereto and made a part hereof and referred to as Exhibit "A," or if no curbs, street curbs or gutters exist or existing curbs, street curbs or gutters are required to be torn out a permit will not be issued by the building official until such person shall obtain a permit as provided for in this division to construct, reconstruct or make such alterations necessary to meet the requirements of the city engineer, and the construction, addition or alteration to such buildings or other improvements shall not be approved by the building official, until such time as the curbs, street curbs and gutters have been constructed or reconstructed and comply with the provisions of the city engineer. (Code 1963, Ch. 11, art. 4, § 1 [Ord. No. 69-42, § 1, 8-11-69])

Sec. 25-92. Application.

An applicant for a permit under this division shall file with the city engineer an application showing:

- (1) Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
 - (2) Name and address of the party doing the work.
 - (3) Location of the work area.
 - (4) Attached plans showing details of the proposed alteration or construction, and the proposed use of the public street or alley during the period of construction.
 - (5) Estimated cost of the construction or alteration.
 - (6) Such other information as the city engineer shall find reasonably necessary to the determination of whether a permit should issue hereunder.
- (Code 1963, Ch. 11, art. 4, § 4 [Ord. No. 69-42, § 4, 8-11-69])

Sec. 25-93. Performance bond.

The city engineer shall require a good and sufficient performance bond issued by a surety company authorized to do business as such in the state, in the penal sum equal to the total estimated cost of the proposed curb, gutter or street curb alteration or improvement, in favor of the city, conditioned that such construction shall be completed in accordance with the city's standards and specifications and such construction. Such bond shall be approved by the city attorney prior to the issuance of permit hereunder. In lieu of such performance bond, the applicant may deposit in cash with the city engineer a sum equivalent to the estimated cost of the improvements or alteration to secure the completion of such construction in accordance with the city's standards and specifications. (Code 1963, Ch. 11, art. 4, § 5 [Ord. No. 69-42, § 5, 8-11-69])

Secs. 25-94--25-115. Reserved.

ARTICLE IV. STREET NAME CHANGES*

Sec. 25-116. Purposes.

The purpose of this article is to establish uniform criteria and procedures, applicable to the city and all persons, groups, firms, and agencies, for the permanent change of a city street name. (Ord. No. 95-21, § I, 3-14-95)

Sec. 25-117. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8. (Ord. No. 95-21, § I, 3-14-95)

Sec. 25-118. Statement of reasons.

Applications for a street name change may be considered for any one (1) of the following reasons, which must be specified in the application:

- (1) To establish continuity of the street's name;
- (2) To eliminate name spelling duplication, phonetic duplication, or misspelling;
- (3) To bring coherence to the street numbering designation (east, west, north, south);
- (4) To provide necessary roadway designation (Street, Road, Lane, Circle, Drive, Boulevard, and similar designations);
- (5) To honor a person, place, institution, group, entity, event or similar subject;
- (6) To enhance a neighborhood through association of the street name with its location, area characteristics, history and similar factors.

(Ord. No. 95-21, § I, 3-14-95)

Sec. 25-119. Application by petition.

(a) An application for a change of the name of a street may be filed by any person, group, firm or agency with the department of planning and economic development in the form of a petition signed by not fewer than fifty (50) percent of all owners, or owner's attorney-in-fact of property abutting the subject street. "Owners" of such abutting property shall be determined by the then current city real property ad valorem tax roll.

(b) The application shall state the present official name of the city street, the proposed new name, and the name and address of each person, group, agency or entity requesting the street name change; a statement of reason or reasons from among those listed above, claimed for such a name change; and the person, group, agency or entity responsible for payment of the city's costs for installing standard city street name signs.

(Ord. No. 95-21, § I, 3-14-95)

***Editor's note**—Ordinance No. 95-21, § I, adopted March 14, 1995, amended Art. IV to read as set out herein. Prior to such amendment, Art. IV consisted of §§ 25-116–25-121, which contained similar provisions and derived from Ch. 11, Art. 6, §§1–5 of the 1963 Code.

Sec. 25-120. City-initiated changes.

In all instances where it is the city's recommendation that a street name be changed, the department head shall file a request for a change of the name of a street with the department of planning and economic development. The written request shall state the present official name of the city street, the proposed new name, and a statement of reason or reasons from among those listed above, claimed for such a name change. (Ord. No. 95-21, § I, 3-14-95)

Sec. 25-121. Processing.

(a) Upon receipt of an application by petition, the department of planning and economic development shall confirm that the petition meets the requirements of section 25-119 above and the city-initiated request meets the requirements of section 25-120 above.

(b) Upon confirming that the petition or city-initiated request meets the requirements of this article, the department of planning and economic development shall forward such to the department of public works to determine the costs associated with installation of new city street name signs. The department of planning and economic development shall, no earlier than fifteen (15) days prior to the date of the proposed public hearing, mail written notice of the public hearing to property owners abutting the street in which the street name is proposed to be changed and publish notice of the date and time of the public hearing in the local newspaper.

(c) A public hearing shall be held by the city council prior to disposing of the petition or city-initiated request.

(d) In all cases where the application by petition has been approved by the city council, such approval is contingent on the city's receipt of payment for the costs associated with the installation of new city street name signs by the person, group, agency or entity designated on the application as responsible for such payment.

(Ord. No. 95-21, § I, 3-14-95)

Sec. 25-122. Post-council procedure.

(a) All city council approved street name changes shall be forwarded to the department of public works for implementation upon receipt of payment for the costs associated with installation of the new city street name signs.

(b) The city secretary shall provide a copy of each street name change ordinance, as recorded in official minutes of the city council, to the local utility companies, U.S. Postal Service, and county voter registrar's office.

(Ord. No. 95-21, § I, 3-14-95)

Secs. 25-123--25-140. Reserved.

ARTICLE V. PARADES AND ASSEMBLIES

DIVISION 1. GENERALLY

Sec. 25-141. Short title.

This article shall be known and referred to as the “Parade and Assembly Ordinance of the City of Killeen.” (Code 1963, Ch. 13, art. 7, § 1 [Ord. No. 72-72, § 2, 11-16-72])

Sec. 25-142. Definitions.

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

Assembly shall mean any concerted meeting together of twenty-five (25) or more individuals or persons for a substantial period of time at a specific place upon any public roadway, sidewalk, or other public place or property at a place within the regulatory jurisdiction of the city.

Assembly permit shall mean a written authorization to assemble issued by the city of Killeen as required by this article.

Association shall mean a group of individuals or persons who are joined together for a specific purpose at a specific time and are acting together without the issuance of a charter by a unit of government; it is not a legal entity separate from the individuals or persons who compose it.

Parade shall mean any concerted walk, column, march or procession of any kind, or any similar display consisting of twenty-five (25) or more individuals, or five (5) or more vehicles, moving together in or upon any public roadway, sidewalk, or other public property in a place within the regulatory jurisdiction of the city.

Parade permit shall mean a written authorization to parade issued by the city of Killeen as required by this article.

(Code 1963, Ch. 13, art. 7, § 2 [Ord. No. 72-72, § 3, 11-16-72]; Ord. No. 98-29, § I, 4-28-98)

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

Sec. 25-143. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8.

Sec. 25-144. Unlawful actions not permitted.

Nothing in this article authorizes the use of public sidewalks, streets, roadways, alleys, parks, or grounds, or the use of any private or public property, by any person in or by any manner, means or method, that violates the laws of the United States, the state, or ordinances of the city applicable thereto. Any person who violates such other laws and ordinances are punishable according to the provisions of such other applicable laws and ordinances. (Code 1963, Ch. 13, art. 7, § 4 [Ord. No. 72-72, § 5, 11-16-72])

Sec. 25-145. Exceptions.

This article does not apply to parades or assemblies consisting of a funeral or funeral procession, nor to students in grades one (1) through twelve (12) going to and from school classes or participating in educational activities when such conduct is under the immediate direction and supervision of school authorities, nor to governmental bodies or units of the city. (Code 1963, Ch. 13, art. 7, § 4 [Ord. No. 72-72, § 5, 11-16-72])

Sec. 25-146. Compliance generally.

It is unlawful for any person applying for a permit, or engaging, participating or aiding in, or forming or starting, any parade or assembly for which a permit has been issued, to fail to comply with all the directions and conditions of such permit and all laws and ordinances applicable to such parade or assembly. (Code 1963, Ch. 13, art. 7, § 4(c) [Ord. No. 72-72, § 5, 11-16-72])

Secs. 25-147--25-155. Reserved.

DIVISION 2. PERMIT

Sec. 25-156. Required.

(a) Every individual has the right to engage in, participate in, form, start or aid in engaging in, participating in, forming, starting or continuing any parade or assembly if a parade permit or assembly permit for such parade or assembly has first been obtained from the city by some individual.

(b) It is unlawful for any person to engage in, participate in, aid, form or start any parade or assembly unless a parade permit or assembly permit therefor has first been obtained as required by this section.

(Code 1963, Ch. 13, art. 7, § 4(a), (c) [Ord. No. 72-72, § 5, 11-16-72])

Sec. 25-157. Procedures.

Any person desiring to parade or assemble within the regulatory jurisdiction of the city, and seeking issuance of a parade permit or an assembly permit, therefor, shall deliver a completed application therefor to the city secretary on forms available upon request to the city secretary.

- (1) *Who may apply.* An individual may apply for a parade or assembly permit. An individual may apply for a parade or assembly permit on behalf of a group if the individual is a member in good standing and submits written authorization to apply for the group. The written authorization must accompany every application.
- (2) *When to apply.* An application for a parade permit or an assembly permit shall be delivered to the city secretary not less than twenty-one (21) days prior to the date upon which the applicant proposes to conduct the parade or assembly, except in an emergency as hereinafter provided for in this section.
- (3) Only one (1) parade or one (1) assembly may be held at any one (1) given time on a day.
- (4) *Emergency application.* No application shall be considered unless made in the manner herein prescribed, unless the failure to apply in such manner is due to the emergency nature of the occasion for a parade or assembly. For purposes of this subsection, an

“emergency” is specifically defined as a sudden, unexpected and unforeseeable occurrence that gives rise to the desire to lawfully communicate concerning such occasion or event by parade or assembly, and of such a nature as to make compliance with the timing requirements for application specified herein impossible. The applicant must completely describe in the application the facts constituting the alleged emergency, specifying how and why such facts constitute an emergency under this subsection, and making sworn verification as to the truth of the facts constituting such emergency before an officer authorized to administer oaths, and attaching such sworn affidavit to the application. Emergency applications for a parade permit must be filed with the city secretary not less than forty-eight (48) hours prior in time to the proposed commencement of the proposed parade or assembly.

(5) *Contents of application.* An application for a parade or assembly permit shall provide the following information:

- a. The name, address and telephone number of the individual applying.
- b. If the applicant is applying on behalf of another person or group, then the person or group’s address and telephone number of the main office, location or headquarters of the group or person, the names, addresses, and telephone numbers of the authorized and responsible officers and leaders of such person. In those instances where the main office, location or headquarters of the person is not within the city limits, then state the address and telephone numbers of the office, location or headquarters located nearest to the city, and the names, addresses, and telephone numbers of the authorized and responsible officers and leaders located nearest to the city.
- c. The name, address, and telephone number of the individual who will be parade or assembly leader, and who agrees to be responsible for the parade and assembly conduct in accordance with any permit issued, together with a signed statement agreeing to be responsible for the conduct of the assembly and parade, in accordance with the permit and all laws applicable thereto.
- d. The proposed date for the parade or assembly.
- e. The proposed starting point, termination point, and route of a parade; and the proposed place, address and street, or building name, designated for an assembly.
- f. The approximate number of individuals that will be in the proposed parade or assembly, and the number and kinds of animals and vehicles proposed to be in the parade or assembly.
- g. The hours when the proposed parade or assembly will begin and terminate.
- h. A statement describing the specific portion of particular streets, sidewalks, or other public property proposed to be used, in connection with the parade or assembly.
- i. The specific location of the staging area for a proposed parade.
- j. The time at which participants in a proposed parade or assembly will actually begin to arrive at the proposed designated staging or assembly area.
- k. An accurate written description of sound, or sounds, planned to be produced incidental to the proposed parade or assembly, whether by human speech, music, or otherwise, and whether, how, and to what extent, it is to be amplified in volume.
- l. An accurate written description of proposed planned conduct of participants incidental to the proposed parade or assembly.

(6) *Number of copies.* Not less than two (2) copies of each application for a parade or assembly permit shall be delivered to the city secretary.

(7) *Rejection.* Any application for a parade or assembly permit that does not substantially comply with this division shall not be considered by the city manager.
(Code 1963, Ch. 13, art. 7, § 5 [Ord. No. 72-72, § 6, 11-16-72]; Ord. No. 98-29, §§ I, 4-28-98)

Sec. 25-158. Granting and appeal from refusal to consider, modification, or denial of application.

(1) Upon receipt of an application, the city secretary shall immediately forward it to the city manager for review. The city manager must approve, modify and approve, or deny the application within 7 days. The city manager must make the decision based upon the standards for issuance stated in this article. The manager may modify the application and grant a permit as provided in section 25-161. If the city manager refuses to consider an application because of applicant's failure to comply with the prescribed required procedures for application, or denies a permit, or modifies a permit, the specific reasons for such shall be sent to the applicant in writing.

(2) If an application is not considered by the city manager, or is modified or denied, any appeal from the decision shall be made to the city council in the following manner:

- (a) A written letter of appeal, signed by the permit applicant, stating the grounds therefor, shall be delivered to and filed with the city secretary.
- (b) A true copy of the application refused shall be attached to the petition.
- (c) The city secretary shall place a copy of the appeal letter and application, along with any pertinent documents, on the agenda for the next regular city council meeting.
- (d) The council shall consider the contents of the application; the city manager's letter stating the reasons for the refusal to consider, modification, or denial; the letter of appeal; the facts surrounding the matter as shown by testimony of parties; any argument of counsel; and the standards for issuance stated in this article.
- (e) It shall be presumed that the only reasons for refusal, modification, or denial are those set out in the city manager's written explanation.
- (f) The city council may consider the application at that meeting or set a date, time, and place for a hearing on each appeal, and shall notify the appealing individual or person thereof.
- (g) The order of procedure upon such hearing is as follows:
 - i. The city attorney, or a person designated to do so, shall present any evidence justifying the modification, denial, or refusal to consider the application.
 - ii. The applicant or applicant's attorney shall have the right to cross-examine any witness and see any documents relied upon by any witness testifying, and to challenge or object to such evidence.
 - iii. The applicant or applicant's attorney shall thereafter present any rebutting evidence justifying consideration and approval of the application or rebutting the modification.
 - iv. The city attorney shall have the right of cross-examination and inspection.
 - v. Both the applicant and the city may offer rebuttal evidence.
 - vi. The applicant shall open and close argument.
 - vii. The mayor or other person presiding shall determine what evidence will be accepted. The city council is not a court and is not bound by nor required to follow formal rules of evidence or judicial procedure, beyond those described in

paragraphs i-vi above. The council will not debate questions of law or admissibility.

- (h) By majority vote, the city council shall either affirm the city manager's denial, modification, or refusal to consider, or vote to reverse the city manager and grant the application for a permit.
- (i) If the city council affirms the manager's decision, it shall have prepared written findings of fact and references to this division, specifically indicating the reason or reasons justified, supporting the decision.

(Code 1963, Ch. 13, art. 7, § 6 [Ord. No. 72-72, § 7, 11-16-72]; Ord. No. 98-29, §§ I, 4-28-98)

Sec. 25-159. Standards for issuance.

The city manager and city council shall consider, and issue or deny, parade permits and assembly permits, in the order in which applications for same are received by the city secretary. The following standards shall be considered by the city manager and city council in evaluating all information gathered through the application and hearing process:

- (1) The conduct of a proposed parade, or the location of a proposed assembly, will substantially interrupt either the safe and orderly movement of other vehicular and pedestrian traffic, in and through the city, or adversely affect the safety and health of the individuals participating, or those normally situated immediately adjacent to the site of a parade or an assembly; or
- (2) The conduct of a proposed parade or assembly will require the use of a greater number of police officers of the city, to properly police the assembly event, than are regularly scheduled to be on duty at the proposed time, and will substantially curtail necessary police protection of other areas of the city; or
- (3) The conduct of a parade or assembly will require the diversion of so great a number of the ambulances available in the city as to substantially curtail and interfere with necessary ambulance services to all individuals within any portion of the city; or
- (4) The concentration of individuals, animals, or vehicles at the proposed staging points of a proposed parade, in the parade, or at the proposed assembly, will substantially interfere with the ability to provide necessary fire and police protection or ambulance service to and for the remainder of the individuals and portions of the city; or
- (5) The conduct of a parade or assembly will substantially and unreasonably interfere with and curtail necessary garbage collection or street cleaning services; or
- (6) The conduct of a parade or assembly will substantially interfere with and curtail necessary movement of firefighting equipment en route to fires, or with the necessary movement of ambulances en route to emergencies; or
- (7) There is a high degree of probability or likelihood that the conduct of the particular proposed parade or assembly will cause, or will tend to cause, injury or damage to individuals, persons or property, or to provoke extremely disorderly conduct, or to create a great disturbance of the peace; or to cause entry upon private property, or upon public property lawfully dedicated to purposes which are inconsistent with the particular parade or assembly; or
- (8) A proposed parade is scheduled to move from its point of origin to its point of termination, with delays en route, entailing such a substantial total period of time as to thereby necessarily require an assembly permit; or
- (9) A proposed assembly is scheduled to convene and disperse at such time or times, and in

- such manner, means or methods as to require a parade permit; or
- (10) The route of a parade, or the place of an assembly, is so close to a building or place in or at which a school, church, or class thereof is in session, or is so close to a particular building or place in or at which there is being conducted a specific lawful activity normally requiring, for its accomplishment, quiet and orderly deliberation and consideration, or absence of and freedom from the intrusion of loud noise or disruptive acts, similar to the requirements of a school, and, that the paraders or assemblers will in reasonable probability, make noise or engage in acts that would cause, or tend to cause, imminent disruption and interference with the normal activity of such school, class, or other lawful activity or occupation with which such noises or disruptive acts are incompatible or inconsistent; or
 - (11) The conduct of a particular proposed parade or assembly will necessarily result in an expenditure of so large a sum or sums of public monies that, in relative proportion to other needs of the public for the use of the same public monies as to be unreasonable, inequitable or confiscatory in nature, and, in determining same, the city council may consider the total amount of monies expended for parades and assemblies held at the request of the same, or substantially the same individuals and persons, during the twelve-month period immediately preceding the date for which the permit is sought; or
 - (12) The particular individual, or person, or some substantial combination thereof, seeking a permit has applied for and received a permit to parade, or assemble, for substantially the same purpose, or purposes, one (1) or more times during the twelve-month period next immediately preceding the date for which the permit is being sought, and therefore the issuance of another or new permit would unreasonably, unfairly, or inequitably prevent another applicant from obtaining a permit to parade or assemble; or
 - (13) A permit for another parade or assembly has previously been issued, scheduling and lawfully permitting another parade or assembly, for the date sought by the applicant.
- (Code 1963, Ch. 13, art. 7, § 7 [Ord. No. 72-72, § 8, 11-16-72]; Ord. No. 98-29, §§ I, 4-28-98)

Sec. 25-160. Modification of application.

The city manager or city council may modify in writing the route, time, number of participants and manner of conduct of a proposed parade, and the place, boundaries of location, time, number of participants and manner of conduct of a proposed assembly, in such manner, means, or methods as it deems or finds necessary or conducive to ensure compliance with the criteria provided in section 25-159. If an applicant is dissatisfied with any modification of an application which has been properly filed and accepted, he or she may present evidence in support of the original application and argue for its approval, as provided for in section 25-158. (Code 1963, Ch. 13, art. 7, § 9 [Ord. No. 72-72, § 10, 11-16-72]; Ord. No. 98-29, §§ I, 4-28-98)

Sec. 25-161. Issuance.

A permit is issued under this division to the individual applicant and, if applicable, to another person or group for whom the application is made, and is binding on all individuals and persons who participate in the parade or assembly. (Code 1963, Ch. 13, art. 7, § 10 [Ord. No. 72-72, § 11, 11-16-72]; Ord. No. 98-29, §§ I, 4-28-98)

Sec. 25-162. Contents of the permit.

Each parade permit issued by the city shall state the starting and termination time; the

portions of the sidewalks, streets, roadways, highways, alleys, and other public thoroughfares and property to be traversed and that may be occupied by the parade; and such other information as the city manager and city council finds necessary to the enforcement of this article and other city ordinances and laws of the state and the United States.

Each assembly permit shall state the starting and termination time of the assembly; the boundaries of the location of the assembly area; and such other information or conditions as the city manager or city council finds necessary to the enforcement of this article, other city ordinances, the laws of the state and of the United States, and to protect the public health and safety.

All parade and assembly permits shall identify by name and address the applicant and the person, or persons, to whom the permit is issued.
(Code 1963, Ch. 13, art. 7, § 11 [Ord. No. 72-72, § 12, 11-16-72]; Ord. No. 98-29, §§ I, 4-28-98)

Sec. 25-163. Duties of permittees.

All persons to whom a parade or assembly permit is issued must comply with all the permit directions and conditions, and with all applicable laws and ordinances, and they must inform all those who participate of all permit directions and conditions. The named parade or assembly leader must carry the parade or assembly permit upon his person at all times during the parade or assembly, and must produce such permit upon request of the police chief or his subordinate officers. (Code 1963, Ch. 13, art. 7, § 12 [Ord. No. 72-72, § 13, 11-16-72]; Ord. No. 98-29, §§ I, 4-28-98)

Secs. 25-164—25-199. Reserved.

ARTICLE VI. OBSTRUCTIONS OF ROADWAYS, ALLEYS OR RIGHTS-OF-WAY

Sec. 25-200. Definition.

For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(A) “Alley” means a street that:

- (1) is not used primarily for through traffic; and
- (2) provides access to rear entrances of buildings or lots along a street.

(B) “Right-of-way” means the traveled portion of the roadway, including any public property within ten (10) feet of the curb line, and in the absence of a curb, the public property within ten (10) feet of the outside edge of the roadway. Right-of-way includes all medians within the public right-of-way.

(C) “Roadway” means the portion of a street, other than the berm or shoulder that is improved, designed, or ordinarily used for vehicular travel.

(D) “Vehicle” means a device used to transport or draw persons or property on a street, but the term does not include a device used exclusively on stationary rails or tracks, or a

manufactured home.
(Ord. No. 01-15, § I, 4-24-01)

Sec. 25-201. Encroaching on or obstructing roadways, alleys and rights-of-way.

(A) It shall be unlawful for any person to place, maintain, or cause to be placed or maintained any object in such a manner as to encroach upon or obstruct any portion of a roadway, alley or right-of-way to the degree that the object impedes the free passage on and use of the entire width of the roadway, alley or right-of-way by the public.

(B) This section does not apply to:

- (1) vehicles lawfully traveling on, or parked or stopped in or upon, the roadway or alley;
- (2) signs barricades or other traffic control devices lawfully in place;
- (3) objects lawfully in place for the purpose of providing utilities or governmental services, such as utility lines, fire hoses or waste collection containers; or
- (4) any other object otherwise permitted or required by law to encroach upon or obstruct the roadway or alley.

(Ord. No. 01-15, § I, 4-24-01)

Sec. 25-202. Notice of violations.

(A) Whenever the code enforcement officer shall determine that any violation of this article has occurred, he shall send a written notice to the violator.

(B) In addition to the written notice, the code enforcement officer may also post notice on the obstruction itself.

(C) The notice must state that the violation must be corrected and removed not later than the 10th day after the date of the notice. (Ord. No. 01-15, § I, 4-24-01; Ord. No. 02-6, § I, 2-26-02)

Sec. 25-203. Remedies, expenses, and citation.

(A) If the violation is not corrected or remedied within ten (10) days following the date of the notice required by this section, the code enforcement officer is authorized to correct or remove the violation. City will store the removed object for thirty (30) days, after which it shall be disposed of pursuant to state law. The cost of correction, removal, storage and/or disposal shall be assessed against the violator. Payment of such expenses shall not relieve any person from prosecution for violation of sec. 25-201.

(B) The code enforcement officer may issue a citation or summons to a person in charge of property within the city limits who violates this article. A person receiving a citation or summons who is convicted of violating any provision of this article shall be guilty of a Class C misdemeanor. Each day the violation continues shall be considered a separate offense. Such remedy under this section is in addition to the abatement restitution.

(C) This section shall not be construed to limit the authority granted by any other law for a police officer or other authorized person to remove an object that is obstructing traffic.

(D) The court may order abatement and removal of the source of an obstruction or encroachment on conviction of an offense under this article.
(Ord. No. 02-6, § I, 2-26-02)

Sec. 25-204. Repeat violations.

The code enforcement officer shall inform the violator, in his written notice to abate, that if the violator commits another violation of the same kind on or before the first anniversary (12 months) of the date of the notice, the code enforcement officer without further notice may correct the violation as provided in this article. (Ord. No. 02-6, § I, 2-26-02)