

ORDINANCE NO. 361

STREETS; SIDEWALKS CONSTRUCTION OR REPAIRS; GUTTERS, CULVERTS, AND ROAD DITCHES; AND TREES

THE CITY OF BESSEMER HEREBY ORDAINS:

Repeal and Replace

This ordinance is titled: Streets; sidewalks construction or repairs; Gutters, Culverts, and Road Ditches; and Trees and replaces Title IV, Streets and Sidewalks, of the Bessemer City Code and repeals Ordinance No. 316

Streets

Definition.

For the purpose of this article, "street" means all of the land lying between property lines on either side of all streets, alleys and boulevards in the city and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

Additional regulations.

The City Manager or Department of Public Works Foreman may make additional regulations reasonably necessary to effectuate the intent of the ordinance and pertaining to openings and excavations in the streets, curb cuts, street openings and house moving, which regulations shall be subject to the approval of the city council. No person shall fail to comply with any such regulations.

Damage and obstruction prohibited; exceptions.

No person shall make any excavation in or cause any damage to any street in the city except under the conditions and in the manner permitted in this article. No person shall place any article; thing or obstruction in any street except under the conditions and in the manner permitted in this article, but this provision shall not be deemed to prohibit the following:

- (1) Such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises;
- (2) The lawful parking of vehicles within the part of the street reserved for vehicular traffic;
- (3) The planting of trees and shrubs as permitted in this code.

Permits, insurance, and surety generally.

(a) Where permits are authorized in this article, they shall be obtained upon application to the City Manager upon such forms as the City Manager shall prescribe, and there shall be a charge as prescribed by resolution of the city council for each such permit. Such permit shall be revocable by the City Manager for failure to comply with this article, rules and regulations adopted pursuant to this article and the lawful orders of the City Manager or the City Manager's duly authorized representative and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this article shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect, indemnify, defend, and save harmless the city from all damages or actions at law that may arise or may be brought because of injury to persons or property resulting from the work done under the permit or in connection therewith.

(b) Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the amounts as prescribed by resolution of the city council. Every such insurance policy shall name the city as an additional insured. A duplicate executed copy or photostatic copy of the original of such insurance policy and confirmation of the additional insured status, approved as to form by the city attorney, shall be filed with the city clerk.

(c) Where cash deposits are required with the application for any permit under the provisions of this article, such deposit shall be in the amount as prescribed by resolution of the city council, and the deposit shall be used to defray all expenses to the city arising from the granting of the permit and work done under the permit or in connection therewith. Six (6) months after the completion of the work done under the permit, any balance of the cash deposit unexpended shall be refunded. When the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

Excavation or Opening permit.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the City Manager. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by Ordinance 360, General Utility/ Street Construction and Repair.

Emergency Openings - Permit.

If an emergency occurs, a permit shall be obtained on the next business day and the provisions of this article shall be complied with.

Backfilling.

All trenches in a public street or other public place, except by special permission, shall be backfilled with approved granular material to within twelve (12) inches of the surface. Any settlement shall be corrected within eight (8) hours after notification to do so.

Utility poles.

Utility poles may be placed in such streets as the Department of Public Works Foreman shall prescribe and shall be located thereon in accordance with the directions of the Department of Public Works Foreman. Such poles shall be removed or relocated as the Department of Public Works Foreman shall from time to time direct.

Responsibility for maintenance of installations.

Every owner of and every person in control of any estate maintaining a sidewalk, vault, coal hole, manhole or any other excavation or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon any street which is adjacent to or a part of the person's estate shall do so only on condition that the maintenance shall be considered as an agreement on the person's part with the city to keep the same and the covers thereof and any gas and electric boxes and tubes thereon in good repair and condition at all times during the person's ownership or control thereof and to indemnify, defend, and save harmless the city against all damages or actions at law that may arise or be brought because of any such excavation or structures.

Culverts - Permit.

No culvert shall be placed in any street except in accordance with the specifications prescribed by the Department of Public Works Foreman and after issuance of a permit therefor by the City Manager. Property owners are responsible for maintaining and replacing culverts whether they are in the ROW or not. No culverts can be longer than 28' for personal use unless prior written approval is obtained from the Department of Public Works Foreman.

Curb Cuts - Permits.

No opening in or through any curb or any street shall be made without first obtaining a written permit from the City Manager. Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

- (1) No single curb cut shall be less than ten (10) feet;
- (2) The minimum distance between any curb cut and a public crosswalk shall be five (5) feet;
- (3) The minimum distance between curb cuts, except those serving residential property, shall be twenty-five (25) feet;
- (4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise shall be forty-five (45) percent of the total abutting street frontage up to and including two hundred (200) lineal feet of street frontage plus twenty (20) percent of the lineal feet of street frontage in excess of two hundred (200) feet;

- (5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the city;
- (6) All construction shall be in accordance with plans and specifications approved by the City Manager.

Sidewalk Obstructions - Permit.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to the street or for any other purpose without first obtaining a permit from the City Manager and posting surety and filing an insurance policy as required by Ordinance 360, General Utility/ Street Construction and Repair.

Pedestrian passage.

At least five (5) feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and, if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter shall be provided around such obstruction.

Obstruction of Sidewalks Prohibited

It shall be unlawful to place any vehicle, article, thing, or obstruction on a sidewalk which would force any pedestrian to leave the sidewalk surface in order to get around the vehicle, article, thing, or obstruction.

Parking in the Meridian Prohibited

It shall be unlawful for anyone to park their vehicle within the meridian between the sidewalk and the curb or shoulder of the road unless there are unusual circumstances due to winter parking requirements approved by the Department of Public Works Foreman. In such an instance, the cars must be parked a minimum of five feet off the curb and must not block the sidewalk.

Barricades and warning lights.

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off and at night shall be provided with prescribed warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three (3) feet apart and parallel to the flow of traffic not over fifteen (15) feet apart.

Shoring of excavations.

All openings and excavations shall, where necessary, be properly and substantially sheeted and braced as a safeguard to workers and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

Moving of buildings, machinery, trucks or trailers.

No person shall move, transport or convey any building, machinery, truck or trailer more than eight (8) feet, eight (8) inches wide or higher than thirteen (13) feet, six (6) inches above the surface of the roadway into, across or along any street or other public place in the city without first obtaining a permit from the City Manager. The applicant shall file written clearances from the light, telephone, gas, water utilities, and any other affected utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along the proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the County Sheriff approving the proposed route through the city streets and the time of moving. The applicant shall deposit with the city the total estimated cost to the public works department plus a cash deposit and a liability insurance policy in the amount of \$2,000,000.

Snow and ice deposited in streets and gutters.

No person shall shovel, push by means of plow or otherwise cause to be placed or deposited in or upon the traveled portion of any street or sidewalk or within any ditch or gutter in any public street any snow or ice removed by the person or under the person's direction from any private property or from any public property abutting any private property owned or occupied by the person.

Removal of encroachments and obstructions and refilling excavations made by landowner.

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting landowner, other than in accordance with the terms and conditions of this article, when the encroachment, obstruction or excavation is made or permitted by the owner or suffered to remain by the owner. The City Council may by resolution permit the continuance of an existing encroachment. No such resolution shall vest any permanent right in the person owning or occupying the structure which encroaches upon the street.

Temporary street closings.

The City Manager and Department of Public Works Foreman each shall have authority to temporarily close any street or portion thereof when either shall deem such street to be unsafe or temporarily unsuitable for use for any reason. The City Manager or Department of Public Works Foreman shall cause suitable barriers and signs to be erected on the street, indicating that the street is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over the street except as may be incidentally necessary to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the City Manager.

SIDEWALK CONSTRUCTION OR REPAIR

Definitions

When used in this Article, the words defined in this section shall have the following meaning:

Sidewalk: The portion of the street right-of-way designed for pedestrian travel.

Specifications and permits.

No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope and specifications established by the Department of Public Works Foreman and without first obtaining a written permit from the building department, except that sidewalk repairs of less than fifty (50) square feet of sidewalk may be made without a permit. The written permit shall be prominently displayed on the construction site. The fee for such permit shall be as prescribed by resolution of the city council.

Permit revocation.

The City Manager may revoke any permit issued under the terms of this division for incompetency or failure to comply with the terms of this division or the rules, regulations, plans and specifications established by the city.

Line and grade stakes.

The Department of Public Works Foreman shall furnish line and grade stakes as may be necessary for proper control of the sidewalk construction, rebuilding or repair, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the City Manager. Where it is necessary to replace the City Manager's stakes disturbed or destroyed without fault on the part of the city or its employees, a charge per stake shall be paid as prescribed by resolution of the city council.

Sidewalk Specifications.

Sidewalks shall not be less than four (4) inches in thickness and expansion paper shall be placed in the joints. All concrete used in sidewalk construction shall, twenty-eight (28) days after placement, be capable of resisting a pressure of thirty-five hundred (3,500) pounds per square inch without failure. The Department of Public Works Foreman may establish additional detailed specifications in addition and not inconsistent herewith, which shall be on file in the department.

Order to build or repair.

(a) The city council may, by resolution, require the owners of lots and premises to build or repair sidewalks in the public streets adjacent to and abutting upon such lots and premises. When such resolution shall be adopted, the city clerk shall give notice thereof to the owner of

such lot or premises requiring the owner to construct, rebuild, or repair such sidewalk within thirty (30) days from the date of such notice.

(b) If the owner of any lot or premises shall fail to build any particular sidewalk as described in the notice as provided in subsection (a) of this section and within the time and in the manner required thereby, the City Manager is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, to cause such sidewalk to be constructed and the expense thereof shall be charged to such premises and the owner thereof and collected. Such expense may also be assessed against the property.

Maintenance Required.

(a)

Generally. The occupant of every lot or premises or the owner of such lot or premises, if the lot or premises is not occupied, shall clear and keep cleared all sidewalks adjoining such lot or premises from weeds, vegetation, filth and other obstructions.

(b)

Core Mixed Use. In addition and within the C-1 commercial district, as established in the zoning ordinances, there hereby is established a C-1 Sidewalk Maintenance Area, and the outside boundaries of this sidewalk maintenance area are hereby established as shown on a map entitled "Zoning Map" dated May 15, 2017, which map is on file in the office of the city clerk. The occupant of every lot or premises or the owner of a lot or premises, if the lot or premises is not occupied, having a lot or premises adjoining a sidewalk existing within the inside boundaries of the sidewalk maintenance area shall clear and keep clear all sidewalks adjoining such lot or premises from snow and ice within twenty-four (24) hours after the fall or formation of such snow or ice. Parking on the sidewalk is not permitted at any time.

Removal by City: If the owners or occupants of any lot or premise shall fail to remove the snow and ice therefrom within twenty-four (24) hours, the Department of Public Works Foreman shall cause the same to be done and the occupants/ owners will be charged. The City Manager shall, at the end of the fiscal year, report any such charges remaining unpaid to the city council, and any such unpaid charges, when thus reported, shall become a lien upon the property abutting or adjoining the sidewalk, street or alley upon which such work has been done and shall be assessed and collected as a single lot assessment in accordance with and in the manner allowed.

Notice.

Annually the City Manager is authorized to notify the owner of any parcel of land or the agent of the owner to clear and remove ice, snow, weeds, vegetation, filth and other obstructions and to keep it cleared and removed. Such notice shall be given by publishing the notice in a newspaper circulating in the city and by such other method as may be directed by the city Council.

Violation for failure to clear; work done at owner's expense.

If the owner or owner's agent has failed to clear and remove the ice, snow, weeds, vegetation, filth or other obstructions as stated herein within fifteen (15) days after notification, the City may do the necessary work, and the cost thereof shall be charged or assessed against the property.

Gutters, Culverts, and Road Ditches

Definitions

Gutter/ Road Ditch: The part of the Right of Way which is shaped, crowned, sloped, or graded for drainage purposes.

Driveway Culvert: A Drain Pipe or other structure of concrete, masonry, metal, vitrified tile, or other materials or combination thereof used to convey or carry surface water across, under, or through any driveway approach or road ditch, and/ or to connect two (2) or more sections of a gutter or road ditch.

Obstructions:

It shall be unlawful for any person to fill or in any manner retard or obstruct the flow of storm or surface water in or through any driveway culvert, gutter, or road ditch in or through any road, street, or public right-of-way.

Notice to remove obstruction.

The owner of any property in front of which there is an obstructed gutter or Roadway ditch shall, shall, within fifteen (15) days after written notification from the City Manager, remove such obstruction or interference or apply for permits to cause a new driveway culvert to be installed so that the flow of the surface or storm water is not obstructed or retarded.

Removal by the City

If the property owner does not remove the obstruction or apply for a permit as stated herein within fifteen (15) days after notification, the City may do the necessary work, and the cost thereof shall be charged or assessed against the property.

Trees

Maintenance

No property owner shall permit the limbs or foliage of any trees or shrubs located on their premises or on the extension of the lawn adjacent to his premises to grow over or upon any sidewalk, road, or alley less than eight (8) feet above the surface.

Every such owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

Planting Trees in the Right of Way

Trees within the ROW may be planted by residents, with City advance approval, or by the city but must meet the following requirements: They must thrive in our Plant Hardiness Zone, be salt tolerant, be disease resistant, and have growth estimates that will not interfere with infrastructure such as roads, sidewalks, and telephone wires. The trees also cannot be invasive. Some suggested trees are as follows: Japanese lilac tree, certain varieties of crab apple, peking lilac, red buck eye, and shantung maple.

Notice to remove trees or limbs.

The owner of any property dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public, within five (5) days after written notification from the City Manager shall remove such trees or limbs.

Removal by the City

If the property owner does not remove the trees/limbs within five (5) days after notification, the City may do the necessary work, and the cost thereof shall be charged or assessed against the property.

Violations

All violations not otherwise specified shall be municipal infractions punishable by up to \$500. Each day of violation is a separate offense.

This ordinance becomes effective fifteen (15) days after the date of its enactment.

Ordained and Enacted into an Ordinance at a regular meeting of the City Council of the City of Bessemer this 19th day of March, 2018

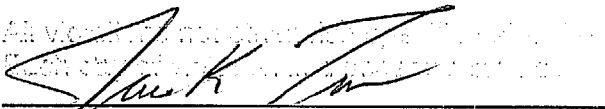
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ATTEST:



James K. Trudgeon, City Clerk