

Chapter 9-24

STREETS AND PARKWAYS

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Section 9-24-01DEFINITIONS

For the purposes of this Ordinance the following terms, phrases, words and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present include the future, words in the plural number include the singular, and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

- A. Encroach. The use, intrusion, enclosure or occupation of a street, sidewalk, parkway or the unused portion of a street.
- B. Obstruction. Any obstacle or thing impeding, or inconveniencing or rendering dangerous, public travel upon and along a street, alley or sidewalk.
- C. Parkway. That portion of public right-of-way situated between the curb line of any street and the property line of property abutting and adjoining any street. In the absence of a curb, the curb line of a street shall be deemed to be the edge of that portion of public right-of-way maintained and open to the use of the public for purposes of vehicular travel.
- D. Person. Any person, firm, partnership, association, corporation, company or organization of any kind.
- E. Sidewalk. The portion of the parkway of a street set aside and intended for the use of pedestrians.
- F. Street. Highways, roads, alleys and bridges dedicated, purchased or otherwise acquired for the public, including the unimproved or unused portion thereof, maintained and open to use by the public.

Section 9-24-02OBSTRUCTIONS

It shall be unlawful for any person, except as provided by this Ordinance:

- A. To cause, create or maintain any encroachment, or obstruction, upon or within any street.
- B. To place, install or maintain any object, substance or matter in lieu of trees, shrubs, bushes, grass or vegetation upon or within any street.
- C. To erect or maintain poles, wires, pipes or structures upon or below the surface of any street.

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- D. To drive any vehicle or ride an animal upon any sidewalk or parkway.

Section 9-24-03PROPERTY ABUTTING STREET

Any owner or occupant of property abutting and adjoining any street may upon and within the parkway of such street:

- A. Improve, adorn or plant trees, shrubs, bushes, grass or vegetation; and
- B. Place, install and maintain any object, substance or matter in lieu of trees, shrubs, bushes, grass or vegetation.

Provided such owner or occupant shall first file an application for a permit with the City Forester who shall have exclusive jurisdiction and supervision over any planting of trees, shrubs, bushes, grass or vegetation, or the installation and maintenance of objects, substances or matters in lieu of trees, shrubs, bushes, grass or vegetation upon and within the parkway of a street. All permits as herein provided shall comply with the provisions of this Ordinance as well as the provisions of Chapter 16, Title 9 and Section 10-16-2 of the Boise City Code. In the event an application for a permit is rejected by the City Forester, the owner or occupant of property may within ten (10) days following the date of the rejection of such application by the City Forester appeal to the Council.

Section 9-24-04ILLEGAL OBSTRUCTIONS

If any encroachment or obstruction has been placed, installed, erected and maintained, or a use made and maintained for private or business purposes, upon a street, sidewalk or parkway without prior permission and consent, the Director of the Department of Public Works shall in writing require immediate removal thereof. If such encroachment or obstruction or use has not been removed, or commenced to be removed, and diligently prosecuted, prior to the expiration of ten (10) days from such notification, by the person who caused or owns or controls the encroachment, or obstruction, or use, the Director must commence proper action to abate the same as a nuisance, and if judgment is recovered in favor of the City, the owner, occupant or person maintaining such nuisance may, in addition to having the same abated, be charged ten dollars (\$10.00) for every day such nuisance remained after notice as well as all costs.

Section 9-24-05APPLICATION TO BE FILED

A person seeking to encroach, obstruct or use a street, sidewalk or parkway, including the unused or unimproved portion of a street, must file an application with the Director of Public Works, who shall present the same for the approval or disapproval of the Council. The application shall include plans and specifications of sufficient clarity to indicate the nature and extent of the proposed obstruction, encroachment, or use of the street, sidewalk or parkway by which to demonstrate that relevant provisions of the Boise City Code and other relevant laws, ordinances, rules, regulations and orders will be complied with, the legal description of the property abutting the street, sidewalk or parkway upon or within which such encroachment, obstruction or the use shall be or is intended to be performed, and any other additional information necessary to make a fair determination of whether to allow or permit the encroachment, obstruction or use.

Section 9-24-06CONDITIONS OF PERMIT GRANTED

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A permit granted pursuant to the provisions of Section 4 herein shall be subject to the following conditions:

- A. The person to whom a permit is given or granted shall acquire no property or contractual right in and to the street, sidewalk or parkway and such permit may be revoked whenever the Council deems it necessary as a proper police measure.
- B. The person to whom a permit is issued shall comply with all laws, orders and regulations of the City and with any direction of any public officer, pursuant to law, which shall impose any duty upon such person, and such person shall at his sole expense obtain all licenses or permits which may be required.
- C. The person to whom a permit is issued shall indemnify and save and hold harmless the City from and for any and all losses, claims, actions and judgments for damages or injuries to persons or property and losses and expenses caused or incurred by the permittee, its servants, agents, employees, guests and business invitees. In addition, the permittee shall maintain and keep in full force and effect liability insurance in which the City shall be named as a named insured in amounts established by the Council. The limits of insurance shall not be deemed a limitation of the permittee's covenant to indemnify and save and hold harmless City.
- D. Upon revocation of any permit given or granted, or in case of any disturbance or damage to pavement, sidewalk or other surface or structure, permittee shall, at its own expense, and in the manner required by the City, replace and restore such in a condition acceptable to the City. (Ord. 3242; 10-26-71)