

## CHAPTER XIII. STREETS AND SIDEWALKS

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### ARTICLE 1. GENERAL REGULATIONS

- 13-101. **OBSTRUCTING SIDEWALKS.** It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implement, tools, boxes, merchandise, goods, cans, crates, corn poppers, peanut roaster, ice cream containers, benches, chairs, display, show cases, scales, or self-service merchandisers on any sidewalks or other public way in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. The mayor may authorize the granting of temporary permits for limited times only to the owner of property abutting on any sidewalk or public way of the city during the construction or improvement thereon. No such permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks or public way shall have been submitted by the owner or his or her contractor and approved by the mayor. (Code 1971, 16-201; Code 1999, 16-101)
- 13-102. **STREET OBSTRUCTION BY BUILDERS.** It shall be unlawful for any person to place or deposit any building materials in the streets or alleys or to use such streets and alleys in any manner for building material without first securing permission from the mayor. (Code 1971, 16-202; Code 1999, 16-102)
- 13-103. **BARRIERS AND GUARDS.** It shall be the duty of every person or persons having charge of any construction or excavation adjacent to or under any sidewalk or street, during the progress of such work, to guard the work securely by a wooden fence or wall attached to posts firmly set in the ground or otherwise securely fixed in place during such time. It shall further be the duty of all such persons for one hour after sunset to one hour before sunrise to illuminate such excavation or work with red lights or flares sufficient in number and so placed as to show the full extent thereof. (Code 1971, 16-203; Code 1999, 16-103)
- 13-104. **REMOVAL OF BARRIERS AND GUARDS.** It shall be unlawful for any person or persons, except those having authority from the city or any officer thereof, to throw down, interfere with or remove any barriers, barricades or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto. (Code 1971, 16-204; Code 1999, 16-104)

- 13-105. UNFINISHED PAVEMENT OR SIDEWALKS. It shall be unlawful for any person or persons to walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for travel. (Code 1971, 16-205; Code 1999, 16-105)
- 13-106. BARBED WIRE FENCES. It shall be unlawful for any person to erect or maintain a barbed wire fence along or next to any sidewalk, street or public place within the city. (Code 1971, 16-206; Code 1999, 16-106)
- 13-107. SIDEWALK OBSTRUCTION ON SURFACE. It shall be unlawful for the owner of any property having a sidewalk adjacent thereto to permit any plank, brick, stone or segment of said sidewalk to be raised above the established level of said sidewalk more than one-half inch, in any manner which might catch the foot of a pedestrian, or to permit any holes or depressions to occur in the sidewalks in which a pedestrian might step or catch his or her foot in a manner liable to cause injury. (Code 1971, 16-207; Code 1999, 16-107)
- 13-108. PETROLEUM PRODUCTS IN STREET UNLAWFUL. It shall be unlawful for any person to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley or sidewalk within the city. (Code 1971, 16-208; Code 1999, 16-108)
- 13-109. DANGEROUS OBSTRUCTIONS. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 1971, 16-209; Code 1999, 16-109)
- 13-110. OBSTRUCTING VISIBILITY; PROHIBITED. In all areas on public or private property at any corner formed by intersecting streets, it shall be unlawful to install, set out or maintain or to allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view, within that triangle formed by the curb lines (or the shoulder of the road when no gutter exists) of the intersecting streets drawn from the apex of the intersecting curb lines back a distance of 60 feet with a line drawn between said points to form a base, such area to be herein referred to as a clear site zone. (Code 1971, 16-210; Code 1999, 16-110)
- 13-111. SAME; EXCEPTIONS. Section 13-110 shall not apply to permanent buildings, public utilities poles, hedges trimmed to a height of less than three feet; trees, the limbs of which are at all times kept trimmed of limbs and sucker growth on the trunk to a height of at least eight feet or the limbs of which overhang the public street and are at all times kept trimmed of sucker growth to a height of at least 13 feet; plants not planted in the form of hedge which are so planted and trimmed as to leave at all times a clear and unobstructed cross view; fences not exceeding four feet in height provided that the ratio of the solid portion of the fence to the open shall not exceed 25%; official warning signs or signals; and, noncommercial signs constructed parallel with the base line which in the opinion of the police department do not obstruct the clear site zone. All heights herein mentioned shall be measured from the gutter grade at the apex of the clear zone triangle. (Code 1971, 16-211; Code 1999, 16-111)

- 13-112. NOTICE; REMOVAL. When in the opinion of the police department, an obstruction to visibility exists as prohibited herein, it shall be the duty of the department to give notice in writing to the property owner or owners of such obstruction. Said property owner or owners shall have 10 days to comply, except temporary nature obstruction, shall be removed at once. (Code 1971, 16-212; Code 1999, 16-112)
- 13-113. EXCAVATIONS. No person shall make any excavation in any street, alley or other public ground in the city for any purpose whatsoever, except excavations required for work under contract with the city for which usual performance and maintenance bonds are required, until he shall first secure from the city a permit, countersigned by the Public Works Supervisor or designated officer, to make such excavation. (Code 1971, 16-213; Code 1999, 16-113)
- 13-114. DUTY TO LAY PIPES. It shall be the duty of the owner or owners of any lot or lots within the corporate limits of the city to construct and lay water service pipes, gas service pipes and sewers to the back of the curb abutting such lot or lots whenever ordered so to do by order, resolution or ordinance of the governing body made in conformity to law: Provided, That such water service pipes, gas service pipes and sewers shall not be ordered constructed or laid under the provisions of this article except in regard to property abutting upon streets upon which paving has been ordered. (Code 1971, 16-214; Code 1999, 16-114)
- 13-115. CUTTING PAVEMENTS UNLAWFUL. It shall be unlawful for any person to cut, break or remove or in any manner displace or damage any curbing, gutter, street crossing, pavement or sidewalk or any part thereof without first securing a permit from the Public Works Supervisor or designated officer. (Code 1971, 14-520; Code 1999, 16-115)
- 13-116. APPLICATION FOR PERMIT; PARKING CUTBACK. An application for a permit under the foregoing section shall be made in writing to the Public Works Supervisor or designated officer. The application shall state the location of the premises by block and lot number and street number, or other sufficient description, the purpose for which the cutting or removal is to be done, the extent of the curb, gutter, sidewalk or pavement to be removed, together with a diagram or sketch of the same. A permit granted by the governing body shall be subject to revocation upon proof that the conditions of the permit have been changed or violated or otherwise misused by the permittee. (Code 1971, 14-521; Code 1999, 16-116)
- 13-117. MANDATORY PAVING IN COMMERCIAL OR INDUSTRIAL ZONE. The governing body may order the owner of any lot in a commercial or industrial zone to install new paving, replace or repair present paving on that part of the lot between the building line and the curb line. (Code 1971, 14-522; Code 1999, 16-117)
- 13-118. RIGHT-OF-WAY; DEFINITIONS. (a) "Public right-of-way" - means only the area of real property in which the city has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire

telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

(b) "Occupant" - means any person, firm, corporation, association, utility, or entity, which enters upon the right-of-way of the City, or in any manner establishes a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, constructing, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto.

(Ord. 1303, Sec. 1; Code 2010)

13-119. SAME; AUTHORIZATION FROM CITY REQUIRED. (a) No person, firm, corporation, association, utility, or entity, shall enter upon the right-of-way of the City, or in any manner establish a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, constructing, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, without the express written permission of the City. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 et seq. or by such other agreement as the governing body determines best protects the public interest in the right-of-way.

(b) Nothing in this ordinance shall be interpreted as granting an occupant the authority to construct, maintain or operate any facility or related appurtenance on property owned by a city outside of the public right-of-way.

(c) The city shall process each valid and administratively complete application for use of the right-of-way within 30 days.

(Ord. 1303, Sec. 2; Code 2010)

13-120. HEALTH, SAFETY, AND WELFARE REGULATIONS. The authority of a provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. (Ord. 1303, Sec. 3; Code 2010)

13-121. SPECIFIC PORTIONS OF RIGHT-OF-WAY RESTRICTED. (a) The City hereby prohibits the use or occupation of the following specific portions of public right-of-way: None.

(b) If the city denies a request to use or occupy a specific portion of the public right-of-way, the requester shall be served a notice of such denial by first class mail. The notice shall indicate that the requester shall have 10 days from the date of receipt of the notice to request a public hearing by the city governing body concerning the denial. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the denial before the governing body. The hearing shall be held by the governing body within 30 days after the filing of the request therefore, and the potential occupant shall be advised by the city of the time and place of the hearing. Following the public hearing, if the city governing body denies a potential occupant's request to use or occupy a specific portion of the public right-of-way, such determination may be appealed to the district court.

(Ord. 1303, Sec. 4; Code 2010)

13-122. COMPLIANCE WITH MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES. Any occupant of the public right-of-way shall comply with the provisions of Standards and Guides for Traffic Controls for Street and Highway Construction,

Maintenance, Utility, and Incident Management Operations Part VI of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Highway Administration, 1988 Edition, Revision 3, dated September 3, 1993, which is incorporated herein by reference as if fully set forth herein. (Ord. 1303, Sec. 5; Code 2010)

- 13-123.            ADDITIONAL REQUIREMENTS. None. (Ord. 1303, Sec. 6; Code 2010)
- 13-124.            EMERGENCIES. If there is an emergency necessitating response work or repair, any person, firm, corporation, association, utility, or entity which has been granted permission to occupy the public right-of-way may begin that repair or emergency response work or take any action required under the circumstances, provided that the person, firm, corporation, association, utility, or entity notifies the city promptly after beginning the work and timely thereafter meets any permit or other requirement had there not been such an emergency. (Ord. 1303, Sec. 7; Code 2010)
- 13-125.            REPAIR. Any occupant of the public right-of-way is hereby required to repair all damage to a public right-of-way caused by the activities of that occupant, or of any agent affiliate, employee, or subcontractor of that occupant, while occupying, installing, repairing or maintaining facilities in a public right-of-way and to return the right-of-way, to its functional equivalence before the damage pursuant to the reasonable requirements and specifications of the City. If the occupant fails to make the repairs required by the City, the City may effect those repairs and charge the occupant the cost of those repairs. (Ord. 1303, Sec. 8; Code 2010)
- 13-126.            RELOCATION. Whenever requested by the City, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, an occupant promptly shall remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the political subdivision. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of such occupant's failure to timely relocate or adjust its facilities shall be borne by such occupant. (Ord. 1303, Sec. 9; Code 2010)
- 13-127.            INDEMNITY. (a) Occupants shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the occupant, any agent, officer, director, representative, employee, affiliate or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a public right-of-way.
- (b) The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If an occupant and the city are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with

the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law.

(c) This section is solely for the benefit of the City and occupant and does not create or grant any rights, contractual or otherwise, to any other person or entity. (Ord. 1303, Sec. 10; Code 2010)

13-128. CLAIM NOTIFICATION. An occupant shall promptly advise the other in writing of any known claim or demand against the provider or the City related to or arising out of the occupant's activities in a public right-of-way. (Ord. 1303, Sec. 11; Code 2010)

13-129. PENALTY PROVISION. Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this article, shall be guilty of a misdemeanor offense, and shall upon conviction be subject to a maximum fine of \$500.00 and 30 days in jail. Each day of violation shall constitute a separate and distinct offense. (Ord. 1303, Sec. 12; Code 2010)

## ARTICLE 2. STREET STANDARDS

- 13-201. CURB LINES. Curb lines are hereby established upon all streets as follows: On all streets within one block of Block Seven, Range Four, 14 feet from the property line; on all of Second, Third and State Streets not hereinbefore provided for 20 feet from the property line; on all other streets 100 feet wide, 30 feet from the property line; on all 80 foot streets, 20 feet from the property line; and on all streets less than 80 feet, 15 feet from the property line. On all new additions taken into the city, the curb line shall be the property line or as may be otherwise shown on the platted addition. (Code 1971, 16-701; Code 1999, 16-201)
- 13-202. SAME; CONSTRUCTION. When any curb is constructed without an order or contract of the governing body it shall be constructed on the established curb line, the top to coincide with the sidewalk top if a curb sidewalk is adjacent thereto and shall not be less than 20 inches deep and 10 inches wide at the bottom and seven inches wide at the top, made of a mixture of not less than one part cement to five parts sand, except the exposed surface which shall be faced two coats of trowel work made of a mixture of not less than one part of cement to two parts of sand.(Code 1971, 16-702; Code 1999, 16-202)
- 13-203. GUTTERS, CONSTRUCTION. When gutters are constructed without an order or contract of the governing body, they shall be constructed even with the bottom of the curb, shall be 24 inches wide, six inches thick, and of the same material and mixture of work as required for curbs. (Code 1971, 16-703; Code 1999, 16-203)
- 13-204. REMOVAL OF IMPERFECT WORK. Any curb or gutter work voluntarily constructed and not conforming to this article may be ordered removed by the governing body and if not removed within the time provided by the order, may be removed by the city, and the costs charged to the owner of the adjacent land and collected as for special assessment of taxes against said land. (Code 1971, 16-704; Code 1999, 16-204)

### ARTICLE 3. SIDEWALK STANDARDS

- 13-301.        **SIDEWALKS BUILT ON ESTABLISHED GRADE.** All sidewalks constructed or reconstructed in the city shall be constructed on the established grade and to a line given by the official designated by the mayor. (Code 1971, 16-101; Code 1999, 16-301)
- 13-302.        **PLANS AND SPECIFICATIONS.** Hereafter all sidewalks in the city shall be constructed, repaired and reconstructed according to plans and specifications on file in the office of city clerk at the time of the adoption of this code, which plans and specifications are hereby adopted by reference as provided by law, or as may be hereafter set out by resolution of the governing body and under supervision of that official designated by the mayor for that purpose. (Code 1971, 16-102; Code 1999, 16-302)
- 13-303.        **REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of property abutting on any sidewalk to keep the same repaired, but the city may, after giving five days' notice to the owner or his or her agent (if known) of the necessity of making the repairs and without notice if the abutting lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof be assessed against the lot or piece of land abutting on the sidewalks so repaired as may be provided by law. (Code 1971, 16-103; Code 1999, 16-303)
- 13-304.        **LOCATION OF SIDEWALKS.** All sidewalks shall be property line sidewalks, except that where owners of all land abutting on one side of a street between two adjacent streets that cross to run into it or in the case of a dead end street from the last street to the end of the dead end street, or in the case of a U street or similar street from the last street before the turn around the turn to the next street, shall petition the governing body that the sidewalk be a curb sidewalk. Where the layout of a street is such as not to meet the foregoing descriptions, the governing body shall determine the distance to be represented by the petition. Where the location of an existing sidewalk is other than as provided for herein, the governing body may direct that any connecting sidewalk be located and constructed so as to connect with the existing sidewalk. (Code 1971, 16-104; Code 1999, 16-304)
- 13-305.        **PROCEDURE FOR ORDERING CONSTRUCTION.** The mayor and the governing body may by resolution order any crosswalk in and order any sidewalk constructed, reconstructed or repaired when in their judgment the same is necessary. The governing body may order a new sidewalk upon receipt of a petition signed by not less than 10 citizens owning real estate in the ward where such sidewalk is petitioned, such petition having been filed with the city clerk. The resolution providing for the construction or repair shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. The city clerk shall cause a copy of such resolution to be served upon the owner or agent for the owner in front of which or adjacent to which the sidewalk has been ordered in or repaired, or by mail on a non-resident owner. If the address of the owner is unknown and no service can be obtained as above, then the published notice of the resolution shall be sufficient notice to the owner. If the sidewalk is not constructed, reconstructed or repaired within the time provided in the notice, the same shall be done by order of the governing body and the cost thereof levied

against the property and certified to the county clerk to be collected the same as other taxes. (Code 1971, 16-105; Code 1999, 16-305)

13-306. OTHER PROVISIONS. Where applicable, the laws set forth in K.S.A. Chapter 12, Article 18, relative to sidewalks shall apply in all situations not otherwise provided for in this article. (Code 1971, 16-106; Code 1999, 16-306)

#### ARTICLE 4. TREES AND SHRUBS

- 13-401. SHADE TREE COMMISSION. There is hereby created a Shade Tree Commission for the City of Phillipsburg to meet monthly. (Code 1971, 16-501; Code 1999, 15-401)
- 13-402. ORGANIZATION, MEMBERSHIP, VACANCIES. The mayor, with the consent of the city council, shall appoint a shade tree commission to be known as the Phillipsburg Shade Tree Commission, consisting of three members who shall be appointed for a term of three years; original appointments to be on the basis of one year, two year and three year terms. Any vacancy may be filled for the unexpired term only. Such vacancy shall be filled by appointment by the mayor with consent of the council. The members shall select a chairman. (Code 1971, 16-502; Code 1999, 15-402)
- 13-403. DONATIONS, GIFTS AND BEQUESTS. The Phillipsburg Shade Tree Commission shall; on behalf of and with the consent of the city council, have authority to receive gifts or bequests from any person for tree planting or maintenance of plantings on any street, avenue or public property. Said gifts or bequests shall be received by the city treasurer and turned over to a special fund for the purposes above set out. (Code 1971, 16-503; Code 1999, 15-403)
- 13-404. DUTIES. It shall be the duty of the Phillipsburg Shade Tree Commission to make all plans and direct all of the operations of the said department and to further the interests of shade tree culture within the limits of the City of Phillipsburg and any other property of the city wheresoever located. (Code 1971, 16-504; Code 1999, 15-404)
- 13-405. CONTROL OF PLANTING ON STREETS. The Shade Tree Commission shall have all authority vested in the City of Phillipsburg in order to exercise full control over the regulation, planning, care and control of shade and ornamental trees and shrubbery now situated or which may hereafter be planted in any public street, avenue or way of the city. The commission may:
- (a) Direct the work of planting, pruning, spraying, removing and irrigating said trees and shrubs and the protection thereof for the public good;
  - (b) Regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care and protection;
  - (c) Plant trees in any public parking;
  - (d) Remove any tree or part thereof, dangerous to public safety or which has become a nuisance; or necessary for advancement to good culture;
  - (e) Prohibit the planting, pruning or removal of any tree upon any public street or parking by any person except under permit from the Shade Tree Commission;
  - (f) Make rules governing the care and treatment of street trees;
  - (g) Specify the manner in which planting and any pruning of said trees shall be done and when deemed necessary; and
  - (h) Preserve, make and maintain historic or notable trees.
- (Code 1971, 16-505; Code 1999, 15-405)
- 13-406. DESIGNATE SPECIES. The Shade Tree Commission shall designate which species of trees shall be planted on each street, avenue and way and thereafter no other than the kind designated shall be planted on the said streets, avenues and

ways without the consent of the Shade Tree Commission, provided that where streets, avenues and ways not continuous, each section may be regarded by the Shade Tree Commission as a unit for purpose of tree designation. Said trees shall be planted at a distance apart as set forth by the commission. The Shade Tree Commission shall set stakes or marks to indicate planting locations and it shall be unlawful to move or change the location of such stakes or marks or to plant in any other location on the said street, avenue and way without the consent of said commission. (Code 1971, 16-506; Code 1999, 15-406)

- 13-407.        **REMOVAL OF TREES.** The City of Phillipsburg through the Shade Tree Commission shall have authority to condemn and remove or order the removal of any tree, tree stump, shrub or vine upon any of the streets, avenues or ways where the said tree, tree stump, shrub or vine is dead, diseased or for any other reason undesirable. In the event notice is given by the Shade Tree Commission to the owner of the abutting property to remove said tree, tree stump, shrub or vine, such removal shall be done by the said owner of the abutting property at his own expense within thirty days after the date of service of notice upon him by the Shade Tree Commission. The Shade Tree Commission shall have authority to trim or prune any street tree or remove any tree which has been planted in violation of any city ordinance without serving notice upon the owner of the abutting property. (Code 1971, 16-507; Code 1999, 15-407)
- 13-408.        **PAVING OF PARKING AREA; OPENING REQUIRED.** Whenever public parkings are paved, an opening of at least five by five feet shall be left unpaved for tree planting, at intervals designated by the Shade Tree Commission as tree location areas. (Code 1971, 16-509; Code 1999, 15-408)
- 13-409.        **PARKING STRIPS; DEFINITION.** Parking strips are hereby defined as the area back of the curb or lane of travel to the property line. (Code 1971, 16-510(d); Code 1999, 15-409)
- 13-410.        **SAME; REMOVAL OF PAVEMENT.** Any pavement that may now be laid over any tree location area shall be ordered opened and removed or may be opened by the Shade Tree Commission and any rock or rock work occupying any tree location area shall be ordered removed or may be removed by said commission. (Code 1971, 16-510(a); Code 1999, 15-410)
- 13-411.        **SAME; USES PROHIBITED.** It shall be unlawful for any person, firm or corporation without the written consent of the city council to pave or install cement, macadam, blacktop, oil, mulch or other material in any parking strip within the city limits. It shall also be unlawful to deposit stones, rocks or rock work within such areas or to landscape the same with bushes, flowers or to make a garden plat therein or plant any seeds of flowers, flower bulbs or any other garden material unless approved by the council upon recommendation of the Shade Tree Commission. Such seeds and garden material shall not include lawn or grass seed approved by the Shade Tree Commission. (Code 1971, 16-510(b); Code 1999, 15-411)
- 13-412.        **SAME; USES PERMITTED.** Parking strips are hereby expressly reserved for use by utilities, seeding with approved lawn seed and growing of grass and shade

and ornamental trees approved by the Shade Tree Commission. (Code 1971, 16-510(c); Code 1999, 15-412)

- 13-413. TREE GUARDS. A tree guard of a character approved by the Shade Tree Commission shall be placed around each tree planted in any public street, avenue or way when deemed necessary by the Shade Tree Commission. (Code 1971, 16-511; Code 1999, 15-413)
- 13-414. SPRAYING, DEFACING, TREES, SHRUBS. It shall be unlawful for any person without permission from the Shade Tree Commission to plant, spray, remove, destroy, girdle, paint, whitewash or deface any tree or shrub in any part of the streets, avenues or ways, or to injure any of the said trees or shrubs by root cutting or exposure or by placing oil or any injurious chemical or substance on the ground around such tree or shrubs or by typing animals to, or piling building material about or by attaching signs, supports, wires or other devices to any of said trees or shrubs. However, a landowner or his authorized representative may trim or prune trees directly in front of his own property. (Ord. 1073, Sec. 1; Code 1999, 15-414)
- 13-415. REMOVAL OF STUMPS FROM STREETS. Any tree, tree stump, shrub or vine that shall be removed from any of the streets, avenues, alleys or public ways shall be removed below the surface of the ground so that the top of the stump removed shall not project above the surface of the ground. (Code 1971, 16-513; Code 1999, 15-415)
- 13-416. TREE REMOVER'S LICENSE AND BOND. It shall be unlawful for any person to engage in the business or occupation of topping, treating or removing trees that are located within the public streets, parkings or alleyways in Phillipsburg without first applying for and procuring a license as in this section provided. However, a landowner or his authorized representative may trim or prune trees directly in front of his own property. The license fee which shall be payable to the city shall be \$25.00 annually in advance; provided, however, that no license shall be required of any public service company engaging in topping, or removing trees in public streets, parkings, or alleyways in the pursuit of their public service endeavors. Before any license shall be issued, each applicant therefor shall first file evidence of possession of liability insurance in the minimum amounts of not less than \$25,000 for bodily injury and \$5,000 property damage indemnifying Phillipsburg or any person injured or damaged against any loss or damage of any kind or description resulting from the pursuit of such business or occupation as hereinafter described. (Ord. 1073, Sec. 2; Code 1999, 15-416)
- 13-417. REVIEW BY CITY COUNCIL. The council shall have the right to review the conduct, acts and decisions of the Shade Tree Commission. Any person may appeal from any ruling or order of the Shade Tree Commission to the city council who may hear the matter and make final decisions. (Code 1971, 16-515; Code 1999, 15-417)

## ARTICLE 5. SNOW AND ICE

- 13-501. SNOW AND ICE TO BE REMOVED. (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours from the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.
- (b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.  
(Code 2013)
- 13-502. SAME: EXCEPTION; ALTERNATE REMEDY. Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed.  
(Code 2013)
- 13-503. SAME; PENALTY. That any person violating the provisions of section 13-501 shall, upon conviction, be fined \$25.00. (Code 2013)
- 13-504. REMOVAL MAY BE MADE BY CITY. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 2013)
- 13-505. COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-504 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (Code 2013)