

**City of Fayetteville Staff Review Form**

**2018-0097**

**Legistar File ID**

**3/6/2018**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Matt Mihalevich

2/15/2018

DEVELOPMENT SERVICES (620)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

Staff recommends approval of an ordinance to amend chapter 98 – Streets and Sidewalks and chapter 50 – Recycling and Trash Collection of the Fayetteville Code to better define the responsibilities of property owners to keep sidewalks clear of obstructions.

**Budget Impact:**

N/A	N/A																		
Account Number	Fund																		
N/A	N/A																		
Project Number	Project Title																		
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"><b>Budgeted Item?</b></td> <td style="border-bottom: 1px solid black; text-align: center;">NA</td> </tr> <tr> <td><b>Does item have a cost?</b></td> <td style="border-bottom: 1px solid black; text-align: center;">No</td> </tr> <tr> <td><b>Budget Adjustment Attached?</b></td> <td style="border-bottom: 1px solid black; text-align: center;">NA</td> </tr> </table>	<b>Budgeted Item?</b>	NA	<b>Does item have a cost?</b>	No	<b>Budget Adjustment Attached?</b>	NA	<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Current Budget</td> <td style="text-align: right;">\$ -</td> </tr> <tr> <td>Funds Obligated</td> <td style="text-align: right;">\$ -</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Current Balance</td> <td style="border-bottom: 1px solid black; text-align: right; background-color: #f0f0f0;">\$ -</td> </tr> <tr> <td>Item Cost</td> <td></td> </tr> <tr> <td>Budget Adjustment</td> <td></td> </tr> <tr> <td style="border-bottom: 1px solid black;">Remaining Budget</td> <td style="border-bottom: 1px solid black; text-align: right; background-color: #f0f0f0;">\$ -</td> </tr> </table>	Current Budget	\$ -	Funds Obligated	\$ -	Current Balance	\$ -	Item Cost		Budget Adjustment		Remaining Budget	\$ -
<b>Budgeted Item?</b>	NA																		
<b>Does item have a cost?</b>	No																		
<b>Budget Adjustment Attached?</b>	NA																		
Current Budget	\$ -																		
Funds Obligated	\$ -																		
Current Balance	\$ -																		
Item Cost																			
Budget Adjustment																			
Remaining Budget	\$ -																		

V20140710

Previous Ordinance or Resolution # \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Comments:



**MEETING OF MARCH 6<sup>TH</sup>, 2018**

**TO:** Mayor and City Council

**THRU:** Don Marr, Chief of Staff  
Garner Stoll, Development Services Director  
Chris Brown, City Engineer

**FROM:** Matt Mihalevich, Trails Coordinator

**DATE:** February 15<sup>th</sup>, 2018

**SUBJECT: 2018-0097 Sidewalk Ordinance Amendments**

---

**RECOMMENDATION:**

Staff recommends approval of an ordinance to amend chapter 98 – Streets and Sidewalks and chapter 50 – Recycling and Trash Collection of the Fayetteville Code to better define the responsibilities of property owners to keep sidewalks clear of obstructions.

**BACKGROUND:**

During a walking tour on August 29<sup>th</sup>, 2017 with the Active Transportation Advisory Committee (ATAC) and the Transportation Committee many sidewalks were observed to be obstructed by vegetation and/or trash and recycling carts in the vicinity southeast of the Square. Since that time, the ATAC and staff have worked to evaluate the existing ordinances relating to sidewalks and determine amendments to better define the responsibility of property owners to keep sidewalks clear and accessible to the public. On January 3<sup>rd</sup>, the ATAC unanimously supported the amended language and forwarded the recommendations to the Transportation Committee during their January 30<sup>th</sup> meeting. The Transportation Committee recommended adding language to include an exemption to the 8-foot clearance requirement for newly planted street trees to give them time to grow large enough to be trimmed to compliance. With this language included, the Transportation Committee unanimously approved the proposed amendments and forward to the City Council.

**DISCUSSION:**

The current language under chapter 98.02 – “duty of property owner and occupant to keep sidewalks free from obstructions” stipulates that it is the responsibility of the property owner to keep the sidewalk in front or alongside their property free from obstructions. The proposed language builds upon the existing requirements by specifying a minimum clear space of 8 feet above the sidewalk and 2 feet back from the edge of sidewalk to insure a safe and accessible route. In addition, a new section is proposed in chapter 98 to provide city staff with the tools necessary to charge a property owner for the costs incurred to clear vegetation and/or obstructions from the sidewalk in the case the property owner is unwilling or unable to do so themselves. The intent is to first educate the property owners of their responsibility to keep the sidewalk clear and only use the financial recourse as a last resort.

The current language under chapter 50 – “recycling and trash collection” stipulates that trash carts placed at curbside must not impede the flow of traffic on the roadway or public sidewalk. The proposed language expands upon the existing ordinance to address areas where a sidewalk is adjacent to the curb and requires the recycling, trash and yard waste containers to be placed at the back of the sidewalk so the sidewalk is not blocked. Staff has verified with the Recycling and Trash Collection Division and the existing articulating arm on the trucks can reach to the back of the sidewalk.

The ATAC recommended that emphasis is placed on educating property owners about the proper placement of trash and recycling and keeping the sidewalks clear of vegetation as outlined in the proposed ordinance changes. Communications staff have been working on pamphlets and website content to help illustrate the responsibility of keeping the sidewalks clear. An example pamphlet has been included in this packet. The pamphlet will be included with code compliance correspondence regarding sidewalks and available on-line for residents to use if they see an obstruction issue.

**BUDGET/STAFFIMPACT:**

No direct cost for this item. The existing code compliance officers will continue to respond to citizen complaints for sidewalk obstructions. The proposed changes will give the code compliance officers more leverage to enforce the unobstructed sidewalk requirements. Through the education campaign and code compliance efforts, it is anticipated that more property owners will begin taking care of keeping their sidewalks clear. This will result in a reduction of the Transportation Services Department staff time dedicated to sidewalks and will provide more time for them to work on other maintenance and capital projects.

**Attachments:**

Fayetteville City Code Sidewalk Obstruction Amendments – Chapter 50 & 98 (with mark-up)  
(Draft forwarded by Active Transportation Advisory Committee on January 3<sup>rd</sup>, 2018)  
(Draft forwarded by the Transportation Committee on January 30<sup>th</sup>, 2018)



CITY OF  
**FAYETTEVILLE**  
**ARKANSAS**

**Fayetteville City Code Sidewalk Obstruction Amendments**

**CHAPTER 98: - STREETS AND SIDEWALKS**

• **98.02 - Duty Of Property Owner And Occupant To Keep Sidewalks Free From Obstructions**

(A) The owner, occupant or agent of every house or parcel of land in the city shall keep the sidewalk and gutter in front or alongside the same free from all obstructions of grass, leaves, weeds or other growths, substances or things.

(B) The owner, occupant or agent of every house or parcel of land in the city may not place, maintain, or permit a tree or plant to obstruct a sidewalk. Vegetation growing over a sidewalk shall be trimmed by the property owner, occupant or agent at a minimum clearance of 8 feet above the sidewalk for the full width of the sidewalk. Where adequate right of way exists, clearance shall be 2 feet back from the edge of sidewalk or edge of pavement if no sidewalk exists. In no event shall this require clearance outside of the existing public right -of-way. Newly planted street trees are exempt from the 8-foot clearance requirement until they are large enough to be trimmed to compliance.

(Code 1965, §18-4; Ord. No. 155, 8-8-1905; Code 1991, §98.04)

• **98.04 - Growing Trees And Other Vegetation Near Intersections; Right-Of-Way To Be Kept Free From Grass And Weeds**

(A) No person shall permit any tree, shrub, hedge, flower or other form of vegetation to grow within 25 feet of the intersection of the curb lines of two (2) intersecting streets to a height in excess of 3 feet above the lowest grade of two intersecting streets; provided, however, that trees now growing in such places may grow above said height if the limbs are trimmed to the minimum height of 8 feet.

(B) The owner (or in the case of leased property, the lessee) of private property abutting a public street or alley right-of-way shall keep that portion of said right-of-way from the center line thereof to the private property line free from tall grass, weeds, debris and other growths, articles, and things.

(Code 1965, §§18-16, 19-22; Ord. No. 1447, 6-7-65; Ord. No. 2076, 1-7-75)

• **98.08 - Spilling Or Tracking Debris Onto Public Streets**

(A) Any person who spills dirt, gravel, sand, offal, or any other similar material, or who tracks mud, dirt or other debris onto the public streets, -sidewalks and trails of the City of Fayetteville shall be responsible for the prompt and thorough clearance and cleaning thereof. The Transportation

~~Division Manager~~ Mayor or duly authorized representative is hereby authorized to order the responsible party to clear and clean the any affected street(s), sidewalk or trail within three (3) business days of notice. The ~~Transportation Division Manager~~ City shall give the responsible party written notice (which can be by hand delivery, mail, or posting the property) of the Mayor's Order to clean or clear the street sidewalk or trail. ~~via certified mail, to perform such acts within three (3) business days of receipt of notice.~~

(B) If the responsible party fails to clear and clean the affected street, sidewalk or trail(s) within three (3) business days of receipt of notice, ~~Transportation Division~~ the City staff may undertake the street, sidewalk or trail cleaning, and bill the responsible party for the costs thereof, at the overtime rate for said staff.

(C) The responsible party may request that the ~~Director of Operations~~ Mayor or duly authorized representative conduct an administrative review of such an order, or the appropriateness of the amount assessed for the cleaning. The decision of the ~~Director of Operations~~ Mayor or duly authorized representative shall constitute final administrative action in the matter.

(Ord. No. 4615, 8-17-04)

- **98.XX - Abatement By City; Costs Responsibility Of Owner**

If the conditions described in a notice given pursuant to §98.02 and §98.04 are not removed or corrected within ten (10) days after such notice is given, the Mayor, or his duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property.

## **CHAPTER 50: - RECYCLING AND TRASH COLLECTION**

- **50.01 - Definitions**

*Curbside.* The edge of the public roadway directly in front of a residence. On corner lots curbside may be construed as the edge of the roadway directly alongside of the residence. In areas where garbage and trash collection is provided along alleys, curbside shall refer to the edge of the pavement of said alley. In either case, placement shall be no more than 6 feet from the public roadway. Garbage and trash placed at curbside ~~must shall~~ not impede the flow of traffic on the roadway or public sidewalk in any way. If a street has a sidewalk adjacent to the curb the recycling, trash and yard waste carts shall be placed at the back of the sidewalk to avoid impeding access on the sidewalk.

- **50.20 – Service Requirements**

(B) (2) *Location of Residential Garbage Carts.* Residential garbage carts shall be placed at a single collection point within ~~63~~ feet of the curb, street, or alley line, where applicable, by 6:00 a.m. on mornings regularly scheduled for garbage and trash collection, provided however, that garbage carts shall not be placed at the curb, street, or alley more than twelve (12) hours before regular pickup, and shall be removed within twelve (12) hours thereafter. Alternate collection points may be specified at the discretion of the city.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND § 98.02 **DUTY OF PROPERTY OWNER AND OCCUPANT TO KEEP SIDEWALKS FREE FROM OBSTRUCTIONS**, §98.04 **GROWING TREES AND OTHER VEGETATION NEAR INTERSECTIONS; RIGHT-OF-WAY TO BE KEPT FREE FROM GRASS AND WEEDS**, § 98.08 **SPILLING OR TRACKING DEBRIS ONTO PUBLIC STREETS** AND § 50.01 **DEFINITIONS** OF THE FAYETTEVILLE CODE, AND TO ENACT §98.09 **ABATEMENT BY CITY; COSTS RESPONSIBILITY OF OWNER**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 98.02 **Duty of Property Owner and Occupant to Keep Sidewalks Free From Obstructions** and enacts a new § 98.02 as follows:

“(A) The owner, occupant or agent of every house or parcel of land in the city shall keep the sidewalk and gutter in front or alongside the same free from all obstructions of grass, leaves, weeds or other growths, substances or things.

(B) The owner, occupant or agent of every house or parcel of land in the city may not place, maintain, or permit a tree or plant to obstruct a sidewalk. Vegetation growing over a sidewalk shall be trimmed by the property owner, occupant or agent at a minimum clearance of 8 feet above the sidewalk for the full width of the sidewalk. Where adequate right of way exists, clearance shall be 2 feet back from the edge of sidewalk or edge of pavement if no sidewalk exists. In no event shall this require clearance outside of the existing public right-of-way. Newly planted street trees are exempt from the 8-foot clearance requirement until they are large enough to be trimmed to compliance.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends § 98.04 **Growing Trees and Other Vegetation Near Intersections; Right-Of-Way To Be Kept Free From Grass And Weeds** by adding “tall” in front of “grass.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends § 98.08 **Spilling or Tracking Debris Onto Public Streets** by repealing it in its entirety, renaming it and enacting the replacement § 98.08 as follows:

**“Spilling or Tracking Debris Onto Public Streets, Sidewalks or Trails**

(A) Any person who spills dirt, gravel, sand, offal, or any other similar material, or who tracks mud, dirt or other debris onto any public street, sidewalk or trail of the City of Fayetteville shall be responsible for the prompt and thorough clearance and cleaning thereof. The Mayor or duly authorized representative is hereby authorized to order the responsible party to clear and clean any affected street, sidewalk or trail within three business days of notice. The City shall promptly give

the responsible party written notice (which can be by hand delivery, mail, or posting the property) of the Mayor's Order to clean or clear the street, sidewalk or trail.

(B) If the responsible party fails to clear and clean the affected street, sidewalk or trail within three (3) business days of receipt of notice, the City may undertake the street, sidewalk or trail cleaning, and bill the responsible party for the costs thereof, at the overtime rate for said staff.

(C) The responsible party may request that the Mayor or duly authorized representative conduct an administrative review of such an order, or the appropriateness of the amount assessed for the cleaning. The decision of the Mayor or duly authorized representative shall constitute final administrative action in the matter."

**Section 4:** That the City Council of the City of Fayetteville, Arkansas hereby enacts a new § 98.09 **Abatement By City; Costs Responsibility of Owner** as follows:

"If the conditions described in a notice given pursuant to §98.02 and §98.04 are not removed or corrected within ten (10) days after such notice is given, the Mayor, or his duly authorized representative, is hereby authorized to do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property.

**Section 5:** That the City Council of the City of Fayetteville, Arkansas hereby amends § 50.01 **Definitions** of Chapter 50 **Recycling and Trash Collection** by enacting the following as an additional and final sentence to the definition of "*Curbside*".

"If a street has a sidewalk adjacent to the curb, the recycling, trash and yard waste bins, carts and containers shall be placed at the back of the sidewalk to avoid impeding access on the sidewalk."

**Section 6:** That the City Council of the City of Fayetteville, Arkansas hereby amends § 50.20 **Service Requirements** by amending the location allowed for garbage carts to be within "6" feet rather than "3" feet of the curb, street or alley.

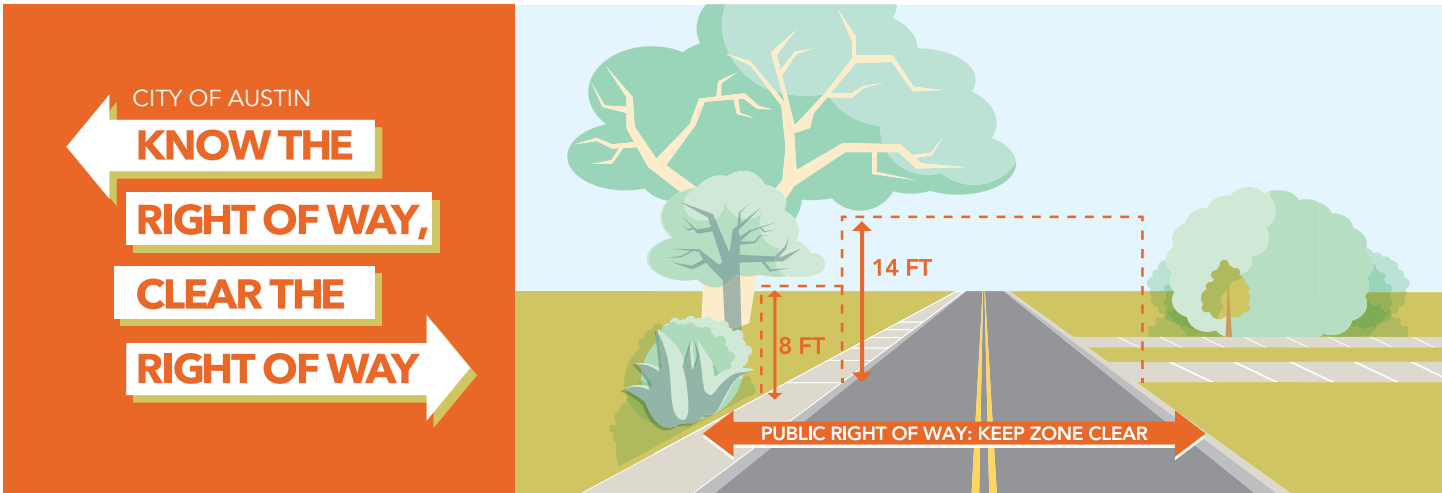
**PASSED** and **APPROVED** this 6<sup>th</sup> day of March, 2018.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA SMITH**, City Clerk/Treasurer



# ENHANCING NEIGHBORHOOD SAFETY BY CREATING A SAFE PATHWAY

## KNOW THE RIGHT OF WAY, CLEAR THE RIGHT OF WAY

To protect public health and safety, it is important to keep streets, sidewalks, bicycle lanes and other public areas free of overgrown vegetation. Green spaces transform the city and provide many benefits that influence the health and well-being of our community. Property owners, both public and private, need to be conscious about managing vegetation on their property to address visibility and safety concerns.

It is important to meet the standards below and keep the following areas free of obstructions:

### Sidewalks

For a clear pathway, keep tree limbs and vegetation trimmed back from the edge of the sidewalk and at least **8 feet above sidewalks.**

### Streets/Alleys

Keep tree limbs and vegetation trimmed back from the edge of the street or alley and at least **14 feet above streets, bicycle lanes and alleys.**

### Effective ways to enhance neighborhood safety:

- Trim trees and vegetation to increase safety for pedestrians, cyclists and vehicles.
- Maintain care and health of the trees on your property. Well-maintained trees provide shade, improve air quality and keep Austin looking beautiful!
- Dial 3-1-1 to request care for trees in the public right of way.

## KNOW THE RULES

### Property Owner Responsibility

Property owners are responsible for the care and maintenance of trees, plants and grass on private property. Overgrown trees and plants can pose a threat when they block the path or view of traffic signs, signals, fire hydrants, vehicles and people. Prune trees and trim or remove any vegetation that blocks the pathway of sidewalks, streets, alleys, bicycle lanes and trails. Keep in mind, the strip of land between the street and sidewalk is public property but the maintenance of vegetation (*with the exception of trees*) is the property owners' responsibility. Trees in the public right of way are maintained by the City of Austin.

### City Responsibility

The public right of way includes streets, sidewalks and alleys. This land is public property and is owned by the City of Austin. It typically extends 10 feet back from the edge of a street, but can vary across the City. While property owners are responsible for mowing the grass and maintaining vegetation that grows in the public right of way, the trees that grow in this area belong to the City and are maintained by trained crews. If a tree growing in the public right of way is in need of maintenance, dial 3-1-1 to report the tree.

*Promoting a safe, clean, visible, walkable, rideable and healthy community.*





# CONNECTING PEOPLE TO PLACES

Whether by foot or by wheels, let's keep public pathways clear of obstructions and available for everyone's use.



## KNOW THE RULES

- Keep pathway cleared to at least **8 feet above sidewalks** and **14 feet above streets, bicycle lanes and alleys**. Trim vegetation back from the edge of the sidewalk and street.
- It is a **violation of City Code** to allow trees and other vegetation to overgrow or obstruct the public right of way. The City of Austin identifies overgrown vegetation and trees as an accessibility barrier for people with disabilities, making it noncompliant with the *Americans with Disabilities Act*.
- **In accordance with City Code**, do not prune or remove trees growing in the public right of way. Dial 3-1-1 to notify the City about right of way trees.

## BIG PICTURE

- **Did you know?** We could **double the amount of usable sidewalks** if residents trimmed the low-hanging branches and overgrown vegetation blocking sidewalks, streets and bicycle lanes.
- **Keep in mind**, if the path is blocked, people will often go around and into the street, making for an unsafe environment.
- **Trees provide many benefits to our community**. Be sure you care for them properly! Visit [treesaregood.org](http://treesaregood.org) on how to keep your trees healthy and happy.

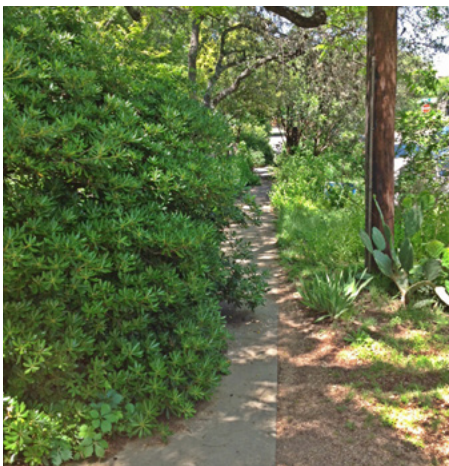
## QUESTIONS?

- Visit [austintexas.gov/trees](http://austintexas.gov/trees) to learn more about Austin's tree preservation code. Some trees require an approved **Tree Ordinance Review Application** prior to pruning or removal.
- **Questions about Oak Wilt?** Visit [texasoakwilt.org](http://texasoakwilt.org) for tips on how to prevent this infectious tree disease from happening in Austin neighborhoods.

### REPORT AN ISSUE

Dial 3-1-1 to report concerns about trees, tall grass and weeds more than 12 inches in height and all other vegetation blocking the public right-of-way.

**BEFORE** | Overgrown Vegetation




**AFTER** | Cleared Pathway



## MORE QUESTIONS?

Go to [austintexas.gov/cleartherow](http://austintexas.gov/cleartherow)

Learn about tree care, pruning guidelines, oak wilt prevention, code enforcement, urban forestry, and the public right-of-way.



 **FOLLOW US**  
[facebook.com/atxpublicworks](https://facebook.com/atxpublicworks)