

Rights-of-Way Maintenance Policy

Purpose.

The purpose of this policy is to promote and protect the health, safety and welfare of the City and its citizens, and improve aesthetic value of the community by requiring routine sidewalk and landscaping maintenance and preventing visual blight. This policy establishes public and private responsibilities for maintenance and repair of public sidewalks, curb and gutter, trees and landscaping located within public rights-of-way.

Definitions.

- A. "Abutting property" means all property having or sharing a property line with any portion of a sidewalk, road, or public right-of-way.
- B. "Sidewalk" means an improved surface constructed for public use by pedestrians.
- C. "Public right-of-way" means a right-of-way held by the city for the benefit of the public.
- D. "Road" means a public thoroughfare that provides for the movement of vehicles and/or is the principal means of access to abutting properties.
- E. "Planting Strip" means a narrow strip of land that includes grass, shrub, trees, or landscape material between edge of the carriageway (roadway) or curb and the sidewalk

Sidewalk construction standards.

All sidewalk improvements, construction, repair, and replacement shall conform to approved City standards.

Sidewalk maintenance standards.

Sidewalks and adjacent areas shall be maintained by abutting property owners in the following manner:

- A. No motorized vehicles, trailers, stockpiled materials, or objects shall be parked, placed, or stored on the curb, planting strip, or sidewalk.
- B. The full width of the sidewalk along the entire length of the abutting property shall be kept clear of snow, ice, dirt, debris, leaf accumulations, and any other obstacles or obstructions that would hinder or interfere with safe and easy pedestrian use.

- C. Plant material such as grass or weeds shall be promptly removed from cracks, voids or openings in the sidewalk surface.
- D. No vehicles shall be parked to block the use of sidewalk by pedestrians.

Duty to reconstruct or repair sidewalks, curb and gutter.

- A. The city shall be responsible for repairs or reconstruction of sidewalks unless such repair or reconstruction is caused by the neglect or abuse of the abutting property owner, in which case the abutting property owner shall be responsible to pay the costs thereof.
- B. Neglect or abuse includes but is not limited to driving or allowing heavy vehicles on the sidewalk. The city shall be responsible for maintaining concrete curb and gutter and raising, repairing and replacing granite curbs unless the repair work is necessitated by neglect or abuse by abutting property owner.

Duty to maintain landscaping in public right-of-way.

All landscaped and open space areas in the public right-of-way (i.e., typically between the curb or pavement edge and back of sidewalk) shall be maintained by the abutting property owner and shall be:

- A. Kept free of litter, debris, intrusive vegetation, weeds and obstructions.
- B. Maintained in a clean, neat, orderly fashion.
- C. Maintained consistent with landscape standards and other approved landscape plans, if applicable.

Trees within Private Property

- A. All trees within private property shall be maintained by abutting property owner so that all trees, plants, shrubs, and vegetation are continually trimmed and do not intrude into or overhang any portion of (1) the sidewalk to a height of seven feet above the sidewalk surface, and (2) the road to a height of 14 feet above the road surface. Tree maintenance, trimming, and removal is governed by the City's Tree Ordinance found in Chapter III of Article 14 of the City Code for Brookhaven, Georgia.
- B. All trees within private property shall be maintained so that trees, plants, shrubs, and vegetation are continually trimmed and (1) do not obstruct or obscure any traffic control device, and (2) do not intrude into a three-foot radius around any fire hydrant above a height of six inches from the ground surface.

Tree maintenance, trimming, and removal is governed by the City's Tree Ordinance found in Chapter III of Article 14 of the City Code for Brookhaven, Georgia.

C. Georgia Power and other Utility Companies have their own tree trimming and clearing standards, which may be in addition to the standards articulated here, and details may be found in Georgia Power website.

Trees within Public Rights-of-Way

A. The City will remove dead and/or hazardous trees from the public rights-of-way that are reported to the City and confirmed to be dead/deceased or hazardous by the City Arborist. The City will remove fallen trees within public rights-of-way only. Any portion of a fallen tree that extends onto the private property is the responsibility of the property owner to remove. The City may remove or prune vegetation if it causes a line of site obstruction, however the City cannot guarantee the aesthetic of the remaining vegetation. The City will notify the property owner if the obstruction exists and provide the opportunity for the property owner to correct the problem before the City acts.

B. The City does not remove healthy-nonhazardous trees from the public rights-of-way. Abutting Property Owner can remove trees at their own expense. A Rights-of-way Encroachment Permit and/or a Tree Removal Permit may be required. The City does not remove vines or shrubs nor does the City mow grass within public rights-of-way.

C. As part of any road widening, resurfacing, traffic calming, sidewalk construction and drainage improvement projects, the City will remove any landscape material, trees, shrubs within public rights-of-way. City will not replace or compensate for removal of such materials within public right-of-way.

Other Structures within Public Rights-of-Way

A. As part of any road widening, resurfacing, traffic calming, sidewalk construction and drainage improvement projects, the City will notify the abutting property owner to remove any structures such as irrigation system, ornamental mail boxes, walls and steps within public rights-of-way. If the abutting property owner failed to remove such items, the City will remove them and place them in the abutting private property. All standard mail boxes will be removed and re-installed at the City's expense.

B. The City will notify the abutting property owner if any malfunctioning and leaking irrigation system is found and provide reasonable time to correct. If the irrigation system is not corrected within a time frame provided, the City will remove the irrigation system and cap the lines at the property line.

Enforcement.

In the event, that an abutting property owner fails to comply with the requirements of this policy, the city may, at its discretion, act to correct the problem and recover the costs of doing so using the following procedures:

A. Written notice shall be given to the abutting property owner describing the property involved and the condition to be remedied, requiring property owner within a reasonable time but not less than five days to take such action as may be necessary or as may be specified to correct the condition, and advising that failure to do so will result in adoption of a resolution by the city council requiring immediate correction of the condition.

B. If the condition described in the notice is not corrected within the time limit set by the notice, the city council may adopt a resolution containing the same material provisions as set forth in the notice and may require immediate correction of the condition. If the condition described in the resolution is not corrected within the time limit set by the resolution, the city may take any action required or necessary to correct the condition.

C. If the city takes any corrective action listed above, all costs of such action shall be charged to the abutting property owner identified in the resolution and shall become a lien against the property which may be enforced and foreclosed in the same manner as liens for labor and material. Costs shall include but not be limited to labor and material for performance of the work and any repair, administrative and supervisory time, attorneys' fees and costs, and disposal fees. If costs are not paid in full within 45 days of billing, a penalty of one percent per month shall be added to the outstanding balance until fully paid.

Utility Agency Responsibility

Utility Agencies (DeKalb Watershed Management, Comcast, Google Fiber, AT&T, Atlanta Gas, Georgia Power, etc.) are responsible for maintaining their pertinent utilities. Agencies shall follow City right-of-way permit ordinances and policies and obtain permits.

Home Owner Responsibility:

Home Owners are responsible for maintaining their driveways, driveway pipes where applicable, grass strip between sidewalk and curb and mail boxes. Any improvements Home Owners perform within the public rights-of-way shall be approved by City Public Works Department.

Home Owners are responsible for contacting utility companies when there are issues regarding the work done by utility companies within their properties or in the easements within their properties.