

TITLE XIII

Rivers and Water Courses

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CHAPTER 1

General

Sec. 13-1-1. Levees; meddling with.

It shall be unlawful for any person, not in the employ of the City, to remove or place slag, stone or any other thing whatsoever along the face of any levees in the City, or within one (1) mile of the outer boundaries thereof, or to remove any dirt or other substance or in any manner interfere or meddle with such levees or material composing the same. (1957 Code, §17-49)

Sec. 13-1-2. Disregarding enclosures.

It shall be unlawful to go under or through, to climb upon or over or to break, cut or damage any fence along any river, stream, watercourse, ditch, canal or water conduit or around any reservoir or pond within the corporate limits of the City. (1957 Code, §17-92)

Sec. 13-1-3. Polluting.

It shall be unlawful for any person to cast any offal, refuse, garbage or filth into any reservoir, ditch, pond or watercourse, or to in any manner whatever pollute the water thereof. (1957 Code, §17-93)

Sec. 13-1-4. Obstructing.

It shall be unlawful for any person to willfully cast or throw any tree, stick, stone, lumber, earth or debris of any kind in any reservoir or ditch of the City waterworks or in any reservoir, ditch or pipe of any water company, to in any manner hinder or obstruct the flow of water in any such ditch, or to interfere or tamper with any head gate or other property connected therewith. (1957 Code, §17-94)

Sec. 13-1-5. River obstructions.

It shall be unlawful and a municipal offense for any person to place or cause to be placed in the channel or bed of any river or stream in the City any fence, building or other structure, or any rock, gravel, concrete or other matter which may encroach upon or reclaim lands from the beds of such rivers or streams, or which may impede, retard or divert or tend to impede, retard or divert the flow of water in said rivers or streams or narrow the beds thereof; provided, however, that nothing contained herein shall deny to the City, any governmental agency or municipal corporation the power to go upon such rivers or streams, modify the river channel and erect and maintain such dikes, levees, bridges, check dams, fish ladders, boat chutes, in-stream diversion structures or other structures as may be necessary or desirable for flood protection, transportation, riparian habitat improvement or public recreation. (1957 Code, §17-95; Ord. No. 3052, §1, 6-13-66; Ord. No. 6762, 12-26-01)

Sec. 13-1-6. Abatement.

The City Council may order that any unauthorized encroachment or obstruction upon the channel or bed of any river or stream, as aforesaid, be removed at the expense of the person doing the same or for whose benefit the same was done, the cost of such work to be recovered by action in any court of competent jurisdiction. (1957 Code, §17-96; Ord. No. 3052, §2, 6-13-66; Ord. No. 6762, 12-26-01)

Sec. 13-1-7. Use of river facilities.

The Director of Parks and Recreation is authorized to adopt and promulgate rules and regulations in conformity with the ordinances and resolutions of the City, including the provisions of Title X hereof, concerning the operation and use of all City-owned or -operated recreation facilities located in, upon or adjacent to any river, stream or watercourse located within the City or upon lands or easements outside of the City which are owned by or under the control of or management of the City. (1957 Code, §17-97; Ord. No. 6762, 12-26-01)

Sec. 13-1-8. Reserved.

CHAPTER 2

Flood and Surface Water Drainage and Control

Sec. 13-2-1. Declaration of policy.

The City Council hereby finds that there is an urgent necessity for providing storm drainage facilities for the drainage and control of flood and surface waters within the City. It further finds that storm drainage facilities are required for the present and future development of areas and territories being subdivided in order that storm and surface waters may be properly drained and controlled and the health, property, safety and welfare of the City and its citizens may be safeguarded and protected. (1957 Code, §20-11)

Sec. 13-2-3. Developers to bear costs.

The owner and developer of each subdivision shall provide the drainage facilities within such subdivision necessary for the drainage and control of surface waters therein. The developer also shall provide the facilities required to convey such drainage waters to such outflow or discharge point as designated by the Director of Public Works, who is hereby specifically empowered to designate such points until such time as a master drainage plan for the drainage basin and area within which the subdivision is located has been approved by the City Council. Thereafter, the master drainage plan shall be used to designate the point of outflow for discharge. (1957 Code, §20-13)

Sec. 13-2-4. Storm drainage fund; unit drainage fee; engineering studies; interim fee.

(a) The Director of Public Works is directed to proceed with engineering studies of drainage basins in and about the City which affect or may affect present or future City territory and drainage therein. Such studies and investigations shall include, but shall not necessarily be limited to:

(1) A designation, schematic or otherwise, of all facilities which are required to provide for the drainage and control of surface waters within said basins and to carry such waters to designated points of outflow or discharge.

(2) Estimates of the cost of providing said drainage facilities, the computation of such cost to include the expense of the studies. The Director of Public Works is directed to compute the estimated cost per acre of providing said facilities within each drainage basin by dividing the number of acres within said drainage basin into the total cost as determined by such studies. Such per-acre cost shall be known as the unit drainage fee. The unit drainage fee shall be established by resolution of the City Council in each drainage basin and shall be reviewed by the City Council annually on or before the anniversary date of the creation of the fund, and shall be re-established in accordance with revisions suggested by subsequent studies.

(b) The unit drainage fee shall be paid or arrangements made for payment thereof as provided in Section 12-4-7 of this Code. (1957 Code, §20-14; Ord. No. 3403, §2, 11-23-70)

Sec. 13-2-5. Special funds; City participation.

(a) All unit drainage fees paid to the City or other revenue received by the City for the construction of drainage facilities should be placed in earmarked funds. A separate fund shall be established for each drainage basin. The monies in each such fund should be used as necessary to provide drainage in that basin and no other.

(b) City participation in each drainage basin fund shall be determined by the City Council upon recommendation by the Storm Drainage Board. (1957 Code, §20-15; Ord. No. 3125, §1, 6-26-67)

Sec. 13-2-7. Green strips.

Whenever possible, multiple use of retention reservoir sites and green strips shall be planned and, if possible, combined with park and recreation areas. (1957 Code, §20-17; Ord. No. 3125, §1, 6-26-67)

CHAPTER 3

Drainage Easements

Sec. 13-3-1. Definitions.

Drainage easement means and includes easements and rights-of way dedicated to the public for drainage of storm and surface water and natural drainage ways which have historically conveyed storm and surface water. (Ord. No. 6676 §1, 4-23-01)

Sec. 13-3-2. Declaration of policy.

The City Council hereby finds and determines that drainage easements should remain open and unobstructed for the safe and efficient control of storm and surface water within the City. (Ord. No. 6676 §1, 4-23-01)

Sec. 13-3-3. Obstructing drainage easement.

It shall be unlawful and a Class 2 municipal offense for any person to install or place any trash, debris, dirt, landscaping, trees, shrubs, structures, buildings or any other object in a drainage easement which hinders, interferes with, or obstructs the free flow of storm and surface water within the drainage easement. (Ord. No. 6676 §1, 4-23-01)

Sec. 13-3-4. Order to abate.

The Director of Public Works or his or her authorized representative may issue a written order to the owner of any property upon which a drainage easement is located to abate and remove all obstruction therefrom. Such order shall describe the obstruction to be abated and removed and the date by which such removal shall be completed. (Ord. No. 6676 §1, 4-23-01)

Sec. 13-3-5. Appeal of order.

Any person receiving an order issued pursuant to Section 13-2-4 may appeal the order to the Zoning Board of Appeals by filing a written notice of appeal specifying the grounds therefor with the Director of the Department of Zoning Administration within fifteen (15) days from the date of the order. The Director of the Department of Zoning Administration shall transmit to the Zoning Board of Appeals all documents constituting the record with respect to the order being appealed. (Ord. No. 6676 §1, 4-23-01)

Sec. 13-3-6. Hearing and review.

The Zoning Board of Appeals shall fix a reasonable time for the hearing on appeal, give fifteen (15) days' prior written notice thereof to the person filing the appeal and the Director of the Department of Public Works, conduct the hearing on appeal in accordance with the ordinances of the City, and decide the appeal within thirty (30) days after the conclusion of the hearing. At the hearing any interested party may appear in person or by agent or attorney. All removal and abatement action required by the order shall be stayed pending decision of the Zoning Board of Appeals. The City of any person aggrieved by the decision of the Zoning Board of Appeals may seek review of the decision by the District Court in the manner provided by C.R.C.P. 106(a)(4). A petition for such review shall be filed within thirty (30) days after the decision of the Zoning Board of Appeals. (Ord. No. 6676 §1, 4-23-01)

Sec. 13-3-7. Failure to obey order.

It shall be unlawful and a Class 2 municipal offense for any person served with an order issued pursuant to Section 13-3-4 to fail to comply with the order within the time specified therein. Failure to comply with such order constitutes a separate and independent violation in addition to and not in substitution of any violation of Section 13-3-3. It shall be an affirmative defense to a violation of this Section that the order has been duly and timely appealed to the Zoning Board of appeals and the Zoning Board of Appeals has reversed or modified the order on appeal after notice and hearing. (Ord. No. 6676 §1, 4-23-01)