

# Chapter 17.42 Property Owner Responsibility for Streets

(Chapter added by Ordinance 172051, effective March 11, 1998.)

## 17.42.010 Policy.

(Amended by Ordinance Nos. 177124, 189290 and 190479, effective June 30, 2021.)

**A.** It has been and remains the policy of the City of Portland that streets are constructed at the expense of abutting property owners and are maintained by abutting property owners until street improvements are constructed to the applicable standards of, and accepted for maintenance by, the City. Until a street improvement has been constructed to City standards and the City has expressly assumed responsibility for street maintenance, it is the exclusive duty of the abutting property owners to construct, reconstruct, repair and maintain the ~~unimproved~~ nonmaintained street in a condition reasonably safe for the uses that are made of the street and adjoining properties. Streets that have not been improved to City standards are not and will not be maintained or improved at City expense, except at the discretion of the City and as provided in this Code and the City Charter.

The City may, at its discretion, conduct maintenance and repair activities on gravel streets and alleys. Such an action will not constitute an express or implicit decision by the City to accept maintenance responsibility for such a street or alley.

**B.** Disputes regarding the condition of the ~~unimproved~~ nonmaintained street are private actions among affected property owners.

## 17.42.020 Maintenance and Construction Responsibility.

(Amended by Ordinance 177124 and 190479, effective June 30, 2021.)

The City assumes no responsibility for maintenance, construction or reconstruction of any street until and unless:

- A. The street has been constructed to City standards and specifications; and
- B. The City has expressly accepted maintenance responsibility for the street by the City Engineer.

## 17.42.025 Maintenance Restrictions.

(Added by Ordinance 177124; amended by 177750, 184522, 185448 and 186053, effective January 1, 2015.)

- A. Notwithstanding anything to the contrary in this Title 17, residents and property owners are not required to obtain a permit to maintain public streets abutting their properties if those streets have not been accepted for maintenance by the City or any other jurisdictions, provided the following conditions are met:
  1. The travel lane location and width of ~~the unimproved portion of~~ the street remains the same;
  2. There is no resulting change in existing drainage patterns outside the public right-of-way;
  3. Drainageways located within public rights-of-way are not filled in or otherwise altered in any manner that could impact the flow of water;
  4. The materials used for maintaining the street are equivalent to the existing street materials, except that gravel may be used to resurface a dirt road;
  5. Asphalt, concrete or other man-made materials may not be applied to existing dirt or gravel surfaces, nor may existing dirt or gravel surfaces be converted to a paved surface;
  6. The maintenance activities and resulting condition of the street do not adversely affect surrounding properties;
  7. Trees in the public right-of-way are not removed or pruned unless a tree permit has been obtained as provided in Title 11, Trees; and

8. Speed bumps or other types of devices intended to slow traffic are not constructed.
- B.** The City Engineer retains final authority to regulate all maintenance and construction activities in the public right-of-way, regardless of whether a permit is required or obtained.
- C.** The City Traffic Engineer retains exclusive authority to establish traffic control devices as provided in Section 16.10.080 and in Section 16.10.200. This includes, but is not limited to, all regulatory, warning, and guide signs, and all types of pavement markings.

### **17.42.030 Liability.**

The owner(s) of land abutting any street that has not been improved to City standards and accepted for maintenance shall be liable for any and all damages to any person who is injured or otherwise suffers damages resulting from the defective condition of the street, or by reason of the property owner's failure to keep the street in safe condition and good repair. Said property owner(s) shall be liable to the City of Portland for any amounts which may be paid or incurred by the City by reason of all claims, judgments or settlements, and for all reasonable costs of defense, including investigation costs and attorney fees, by reason of said property owners' failure to satisfy the obligations imposed by the Charter and Code of the City of Portland to maintain, construct and repair such streets.

### **17.42.040 Definition.**

(Repealed by Ordinance 190479, effective June 30, 2021.)