

## CHAPTER19

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### ARTICLE 1. USE AND OBSTRUCTION

- 19-1: **TREES AND SHRUBBERY<sup>1</sup>:**

- A. The owner of any premises abutting on any street shall trim all trees and shrubbery growing in the parking, between the sidewalks and

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the roadway, of any such street, and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as hereinbefore required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten feet (10') above the roadway of a street or alley, nor lower than eight feet (8') above the sidewalk. (1983 Code)

**19-2: PENALTY:**

- A. Any owner or occupant who fails, refuses or neglects to trim trees and shrubbery as provided in section 19-1 of this article, after receiving five (5) days' notice from the Code Enforcement Officer to do so, shall be guilty of an offense. (Ord. 2017-2, 3-13-2017)

**19-3: UNLAWFUL TO INJURE TREES AND SHRUBBERY:**

It is unlawful for any person to injure any tree or shrubbery in a street or alley; provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery. (1983 Code)

**19-4 : UNLAWFUL TO OBSTRUCT:**

- A. It is unlawful for any person, firm, or corporation to place or permit to be placed upon sidewalks, parkways, streets, and alleys, any goods, wares, articles of merchandise, or any other obstruction, and leave same thereon; or to use the same as a place to carry on a business or trade. (1983 Code)

**19-5 : UNLAWFUL TO INTERFERE:**

- A. It is unlawful for any person, firm, or corporation to use or obstruct sidewalks in any manner so as to interfere unduly with pedestrian traffic thereof, or to use or obstruct streets and alleys in any manner so as to interfere unduly with lawful traffic and parking thereon. (1983 Code)

**19-6 : UNLAWFUL TO DEPOSIT REFUSE:**

- A. It is unlawful for any person, firm, or corporation to deposit, throw, or sweep into or upon streets, alleys, parkings, or sidewalks, any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes, or other refuse of any kind. (1983 Code)

**19-7 : OBSTRUCTION INTERFERING WITH DRAINAGE:**

- A. It is unlawful for any person, firm, or corporation to obstruct any street, sidewalk, or alley, by placing any approach driveway or other obstruction or substance whatever that will obstruct or prevent the natural flow of water into the storm sewers or drains, or dam the same so as to back any water upon the streets, alleys, sidewalks, or gutter. (1983 Code)

**19-8 : PLAYING ON SIDEWALKS AND IN STREETS:**

- A. It is unlawful for any person to play on sidewalks or upon the main traveled portion of streets and alleys, except as may be authorized by ordinance. (1983 Code)

**19-9 : VEHICLES NOT TO BE WASHED ON STREETS:**

- A. The washing of an automobile or other vehicle in any street is hereby prohibited. (1983 Code)

**19-10 : WATER, MUD, ETC., FROM VEHICLE NOT TO DRAIN ONTO STREET:**

- A. No automobile or other vehicle shall be washed at any place where the water, dirt, mud, or other substances removed therefrom by or during the washing thereof, shall drain into or upon any street or sidewalk. (1983 Code)

19-11                    **FILLING STATIONS AND OTHER BUSINESSES:**

- A. It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease, or other fluid to flow or drain into, upon, over, or across any sidewalk, parking, street, alley, or other public way. (1983 Code)

19-12:                    **SIDEWALK OR SIDEWALK AREA NOT TO BECOME A HAZARD:**

- A. It is unlawful for the owner or occupant of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk or sidewalk area. (1983 Code)

**ARTICLE 2. CONSTRUCTION AND SPECIFICATIONS**

19-13:                    **CONSTRUCTED AT OWNER'S EXPENSE:**

All sidewalks, including grading therefor, with or without curbing, shall be constructed at the expense of the owner of lots and pieces of ground fronting thereon, as hereinafter provided. (1983 Code)

19-14 :                    **PETITION OF CITIZENS:**

- A. When ten (10) or more resident citizens of the town of Chouteau shall petition in writing for the construction of sidewalks within the town limits, the board of trustees may order the same constructed, including grading therefor, with or without curbing, if they deem it necessary, and the cost thereof to be levied as a special tax bill upon all lots and pieces of ground abutting on such sidewalks, streets or alleys, or parts thereof in proportion to the front feet thereof; and such petition shall be entered of record in the journal of the proceedings of the board of trustees. (1983 Code)

**19-15 : BOARD OF TRUSTEES MAY BUILD:**

- A. If the board of trustees desires to construct such sidewalks, they shall order the street commissioner or town engineer, to make an estimate of the cost thereof, including the grading therefor, with or without curbing, per front foot and submit the same to the board of trustees as soon as practicable. On the receipt of such estimate, the board of trustees shall direct the street commissioner to advertise for bids therefor, stating the manner in which and where such advertisement shall be published, and the date of the meeting of the board of trustees when bids will be opened by the street commissioner, in the presence of the board of trustees. Such advertisement shall be published in some newspaper in the town of Chouteau, not less than one week. (1983 Code)

**19-16 : HOW BIDS ACCEPTED:**

- A. If the board of trustees desires to accept any of the bids offered (not exceeding the street commissioner's estimate) it may be accepted by a vote of the majority of all members of the board of trustees, the yeas and nays being carefully entered on the journal. All advertisements for bids shall advise bidders that payment for such sidewalks shall be by a special tax bill and that the board of trustees reserves the right to reject any and all bids. If no bids be accepted, the board of trustees may direct the town street commissioner or engineer to advertise for bids as in the first instance. Nothing in this article shall be construed to preclude any owner from constructing his or her own sidewalk in front of his own property abutting on said sidewalks, provided such property owner constructs the same in strict accordance with all the plans and specifications contained in the order of the board of trustees. (1983 Code)

**19-17 : BID ACCEPTED:**

- A. The acceptance of a bid shall be taken as an award of motions for the same, within the time agreed upon and without negligence causing or tending to cause damage to private property for which the town might be held liable, and provided that such contractor agrees to accept payment for such work in special tax bills, and that in no event is the town of Chouteau to be held liable for any sum whatever for work done under such a contract. (1983 Code)

**19-18 BOND OF CONTRACTOR:**

- A. The street commissioner shall also require the contractor proposing to do said work to give bond with two (2) or more good and sufficient securities, to be approved by the board of trustees, conditioned that the contractor will faithfully and completely comply with all the conditions of said contract and that he will pay for all labor and material employed or used in the work provided for in such contract. All bonds and contracts received under the provisions hereof shall be kept safely in the office of the town clerk. (1983 Code)

**19-19: SUPERVISION:**

- A. All work under the contract entered into under the provisions hereof, shall be carried on under the supervision of the street commissioner who shall personally inspect the work as it progresses, and see that the same is done in strict accordance with the plans and specifications and contract governing the work, and the street commissioner may exercise general supervision over the work. On the completion thereof, if, in the opinion of the street commissioner, said work has been done according to said specifications and contract, the street commissioner shall report to the board of trustees. The board of trustees shall thereupon levy by ordinance, a special tax upon the lots and pieces of ground abutting on such sidewalk, street, avenue, square, alley, or part thereof, upon which such improvements have been made for the amount among the several lots and pieces of ground therefor in proportion to the front feet thereof, charging such lot and piece of ground with its proper and lawful share of the amount so due. Provided that corner lots shall be liable for the extension of curbs and sidewalks to the curb line each way. (1983 Code)

**19-20: SPECIAL ASSESSMENTS:**

The cost of bringing the sidewalk portion of the street to the necessary or established grade may be included in the special assessment and for constructing the sidewalks and bringing the same to the required grade and doing the necessary grading shall be included in the same contract with the work provided for herein and tax bills issued in payment for all said work as herein provided. (1983 Code)

**19-21 : PAYMENTS IN INSTALLMENTS:**

- A. The total cost of constructing any curbing and sidewalk and the grade and filling therefor, may be paid in five (5) equal payments, payable in one, two (2), three (3), four (4), and five (5) years respectively, from the date of tax bill, provided that the owner of any lot or tract of land assessable with part of cost of said improvements shall, at any time before the acceptance of the work by the proper officer of the town, notify the town clerk in writing that he desires to pay the cost of such improvements in installments; in such cases, the special tax bill issued shall be made respectively, one-fifth ( $\frac{1}{5}$ ) in one year, one-fifth ( $\frac{1}{5}$ ) in two (2) years, one-fifth ( $\frac{1}{5}$ ) in three (3) years, one-fifth ( $\frac{1}{5}$ ) in four (4) years, and one-fifth ( $\frac{1}{5}$ ) in five (5) years from the date of said special tax bill thus to be paid in installments shall bear interest at the rate of six percent (6%) per annum from date until paid, and provided that if any such installment is not paid when due, then all the remaining installments shall become due and payable. (1983 Code)

**19-22 : COLLECTION ENFORCED:**

- A. All special tax bills issued for a special assessment under the provisions hereof shall be assessable and collectable in any action at law brought by the holder or owner of said tax bills by the town of Chouteau, in any event, shall not be liable for the cost in any suit brought by the holder or owner of such bills, and the said tax bills shall, in action thereon, be prima facie evidence of the regularity of the proceedings for such special assessment, or of the validity of said tax bills and the doing of the work and furnishing the material charged for, and the liability of the property to the charge stated in the bills, and all such special tax bills bear interest at the rate of six percent (6%) per annum from date of issuance. (1983 Code)

**19-23 : ABSTRACTS OF ASSESSMENT:**

- A. The town clerk shall, on the completion of all special tax bills hereinafter issued, enter an abstract thereof in a special book kept by him for that purpose; said abstract shall recite the date of the tax bill, the name of the property owner, and the person in whose favor it is issued, and a description of the property subject to the lien, and the streets upon which it abuts, amount of the tax bills and the character of the improvements for which it is issued. When any tax



bill is assigned, such assignment shall be noted thereon and the assignee shall exhibit the same to the town clerk, who shall, on the margin of said tax bill, appropriately note such assignment. The party liable to pay said tax bill may either pay the owner of such tax bill, or he may pay the amount and make out duplicate receipts therefor, one of which shall be delivered to the person so paying the tax bill and the other he shall immediately file with the town clerk and thereupon, the town clerk shall note the filing of said receipt on the margin of the abstract book and shall mark said tax bill canceled and shall affix his name to such cancellation with the date thereof. The town treasurer, on the presentation to him of the tax bill by its owner, shall pay to him the amount thereof, taking the duplicate receipts therefor, one of which he shall file with the town clerk, who shall note the same on the margin of the abstract of the tax bill and the other the town treasurer shall retain. The treasurer shall be liable on his bond for all said collections. When any owner of property against which a special tax bill has been issued shall pay the owner of the tax bill the amount therefor the contractor or assignee shall endorse on the back thereof, receipt of the amount paid and deliver the same as endorsed to the party making such payment together with a certificate addressed to the town clerk, stating that such tax bill has been paid and the owner of the property described in the bill is entitled to satisfaction thereof on the register and abstract of special tax bills herein provided, and the clerk on the receipt of such certificate, shall file the same and enter satisfaction and also certify on the back of said tax bill that satisfaction has been entered thereon. (1983 Code)

**19-24 : ESTIMATE TO BE NUMBERED:**

- A. All estimates made by the town street commissioner or engineer under the provisions of this article, shall be numbered consecutively and recorded in book of estimates to be kept for that purpose. (1983 Code)

**19-25 : CONSTRUCTION OF SIDEWALKS ORDERED:**

- A. Cement sidewalks are hereby ordered to be constructed in the town of Chouteau, Oklahoma, as follows:
1. A cement sidewalk ten feet (10') wide on both sides of Queen Avenue, from the west side of West Railroad Street to the east side of McCracken Street.

2. A cement sidewalk on both sides of Queen Avenue, from the west side of McCracken Street, to the east side of Vann Street, and said sidewalks to be four feet (4') wide.

3. A cement sidewalk, four feet (4') wide on the west side of McCracken Street, from the north side of Charlotte Avenue, to the north section line.

4. A cement sidewalk, four feet (4') wide on Olney Avenue, from the west side of McCracken Street to the east side of Vann Street, said sidewalk to be built on the north side of Olney Avenue.

5. A cement sidewalk on the south side of Cowley Avenue, from the west side of McCracken Street to the east side of Vann Street, said sidewalk to be four feet (4') wide.

6. A cement sidewalk, four feet (4') wide on its west side of Hayden Street, from the north side of Cowley Avenue to the west side of Olney Avenue, said sidewalk to be four feet (4') wide. (1983 Code)

**19-26 : GRADING:**

A. In constructing said sidewalks, the contractor or builders thereof, shall grade the surface of the ground on the lines of the sidewalks to the grades given and established by the engineer without any additional charges except in the case where the original surface of the ground would average, for the whole frontage of the lot, more than six inches (6") above or below the surface of the walks when laid, and in such cases the contractor shall be paid for the amount in excess of the said average of six inches (6") for the whole frontage of the lot, such price as he bids for extra excavation or embankment in his proposal. (1983 Code)

**19-27 : OBJECTIONABLE MATERIAL FOUND:**

A. If any objectionable material, vegetable or animal, be found in the line of the walk to be laid, it shall be removed and the space filled with good earth, sand, gravel, cinders, or other suitable material carefully rammed. Stumps, rubbish, or other matter which, in the opinion of the town engineer or inspector, is deemed unsuitable for filling material, will not be permitted in this work. (1983 Code)

**19-28 EXCAVATION:**

- A. When the sidewalks herein provided for are laid on clay ground, an excavation of four inches (4") must be made, and the space filled with Joplin tailings, chat, broken stone, slag, or clean gravel; this is to act as a foundation for the four inches (4") in the sidewalk proper. Upon the subgrade prepared as herein stated, there must be laid a bed of Portland cement concrete three inches (3") in thickness after being rolled and rammed, to be made as follows: The lower portion or bed of the walk to be one measure of Portland cement, three measures of clean, sharp, sand, thoroughly mixed dry and made into a mortar with as little water as possible or practicable, and six (6) measures of crushed slag, Joplin tailings, or chat or broken stone free from dust or dirt, then thoroughly mixed with mortar by being turned over at least three (3) times. Slag or stone must be of such a size as will pass through one and one-half inch (1½") ring. (1983 Code)

**19-29: SURFACING:**

- A. The top finish or wearing concrete surface to be one inch (1") thick and to be placed on top of the concrete as prepared in sections preceding, and placed while green after the completion of said bed or bottom. The top service shall be composed of one measure of Portland cement and two (2) measures of clean, sharp, sand thoroughly mixed dry to the satisfaction of the town inspector or engineer, and then enough water added to make a paste of proper consistency and then floated or troweled to a finish as may be required by the town engineer or inspector in charge. All concrete shall be laid in sections, no block to be larger than six by twelve feet (6 x 12'). All joints must be cut through the full thickness of the walk and the space made by the cutting tool, one-fourth inch (1//) in width must be filled with clean, dry, sand. Any lack of compactness between the wearing surface and the bottom shall be deemed sufficient cause for removing, or requiring the removal of the entire work and substituting of new and satisfactory work. (1983 Code)

**19-30 : SAND:**

- A. All sand used in the construction of said sidewalks shall be coarse, sharp, siliceous, and contain not more than five percent (5%), by weight, loam or clay. It shall be free from all organic matter or other

impurities. it shall be dumped on the ground in suitable platforms and shall, in every way, meet the approval of the town engineer or other person representing the town in said work, and shall stand a number ten (#10) standard testing sieve having ten (10) meshes to the lineal inch. (1983 Code}

**19-31 : GRAVEL:**

- A. Gravel, if used, must be screened, if necessary in the judgment of the town engineer, and no part thereof shall be larger than one and one-half inches (1<sup>1/2</sup> ) in diameter. If Joplin chat or tailings are used, it can be used without any screening or sieving if clean and free from any other composition such as dirt or earth. (1983 Code)

**19-32 : WORK AND MATERIAL GUARANTEED:**

- A. The contractor building these sidewalks must guarantee said walks laid under his contract to remain in perfect condition for a period of two (2) years after the expiration of his said contract, and must enter into a good and sufficient bond with the town of Chouteau, conditioned that he will repair any and all such sidewalks that may get out of repair during a period of two (2) years next following the completion of his said contract. {1983 Code}

**19-33: CONTRACT AUTHORIZATION:**

- A. The chairman of the board of trustees of the town of Chouteau, Oklahoma, is hereby authorized to make and enter into the following contract with whomsoever shall make the lowest and best bid for the building of the sidewalks in this ordinance provided for; said contractor agreeing to make and enter into a good and sufficient bond in a sum not less than double the amount of his said contract price conditioned that said contractor will faithfully perform every condition in said contract made and entered into, said chairman being authorized to sign any and all contracts and agreements necessary on the part of the said town of Chouteau, the board of trustees hereby ratifying and endorsing said contract or contracts. (1983 Code)

19-34 **FORM OF CONTRACT:**

A. Contracts for the construction of sidewalks In this town shall be in the following form:

*This agreement, made and entered into this, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Town of Chouteau, Oklahoma, by the chairman of the Board of Trustees in that behalf, party of the first part, and \_\_\_\_\_, party of the second part:*

**W/TNESSETH:**

*That party of the second part has agreed, by these presents, does agree with the party of the first part, for the consideration herein after mentioned and contained, and under the penalties named in a bond bearing even date with these presents, and hereunto annexed, to furnish all necessary material and labor and construct for the said party of the first part, sidewalks on \_\_\_\_\_ side of the following streets and parts of streets in the said Town of Chouteau, Oklahoma:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*in strict conformity to the plans and specifications stated and fully set out in ordinance under twenty-nine (29) passed and approved March 25, 1912, and the said party of the first part agreed on its part that as soon as the sidewalks are well and truly constructed according to said ordinance and this agreement, to issue and deliver to the said party of the second part, special bills levied on all lots or parcels of land abutting upon said sidewalks or any of the same, and said party of the second part agrees to accept said tax bills as payment for said material and labor furnished and provided, and in no case shall the Town of Chouteau be held liable for the payment of said tax bills, or for any of the same, or for any costs incurred in collecting the same by said party of the second part, his heirs or assigns.*

*The party of the second part agrees to construct said sidewalks at the following prices:*

- 1. The ten (10) foot sidewalks at \$\_\_\_\_\_ per\_\_\_\_\_

2. The four (4) foot sidewalks at \$\_\_\_ per \_\_\_\_\_

and do any and all necessary grading and excavating and filling in as said work progresses and to be governed solely by the plans and specifications laid down and specified in said ordinance number twenty-nine (29).

Witness our hands this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Chairman of the board of trustees, Town of Chouteau, Oklahoma.

Seal:

Attest \_\_\_\_\_ Clerk of the Town of Chouteau, Oklahoma.

(1983 Code)

**19-35 : STREET COMMISSIONER, ADDITIONAL DUTIES:**

A. It shall be the duty of the street commissioner to move or cause to be moved all obstructions to the free passage along streets and alleys of the town; he shall see that all laws, ordinances, resolutions and contracts passed or entered into by the board of trustees and regulations or in any manner referred to the streets, avenues, alleys, gutters or bridges of the town be strictly enforced, and he shall perform such other duties, consistent with his office, as may be required of him by the board of trustees. (1983 Code)

**19-36 : EXISTING SIDEWALKS TO COMPLY:**

A. Any existing sidewalks not in conformity with the provisions of this chapter as to grade and specifications may be condemned by the board of trustees at any time, and the same ordered rebuilt upon the proper grade and according to the specifications of this chapter. (1983 Code)

**19-37 : REPAIRS:**

A. All sidewalks out of repair shall be required with good material of the same kind and dimensions and of good quality equal to that

originally used in the construction of said sidewalk, and well laid so as to correspond with the rest of the sidewalk; and such of the sidewalk or parts thereof, as have settled so as to make depressions, or have become raised above the grade of the sidewalk shall be replaced on the same grade as the rest of the sidewalk. (1983 Code)

### ARTICLE 3. MISCELLANEOUS

#### **19-38 : DEFACING SIDEWALK:**

A. It shall be unlawful for any person, firm, or corporation to cut, carve, paint, mark, engrave or inscribe upon any sidewalk, curbing, pavement, or other public part of any street, any sign, mark, advertisement, or effigy, other than to show the sidewalk contractor's nameplate. (1983 Code)

#### **19-39 : WASHING SPITTOONS AND SWEEPING SIDEWALKS:**

A. It shall be unlawful and an offense for any person to, in said town, wash any spittoon, or dust any rag or carpet, or to sweep any dust, dirt, waste, or other sweeping on or across any sidewalk onto any thoroughfare. (1983 Code)

#### **19-40 : CELLAR DOORS OR GRATING, OPEN:**

A. It shall be unlawful and an offense for any person in said town to keep open or leave open any cellar door or grating of any kind, on or upon any sidewalk, or suffer or permit the same to be left open, except necessarily open during the use thereof, and during such time the same shall be properly guarded and protected. {1983 Code)

#### **19-41 : BUSINESS USE PROHIBITED:**

A. It shall be unlawful and an offense for any person, firm, or corporation to construct, erect, operate, or maintain, or permit to exist any icebox, ice dock, gasoline pump, gasoline storage reservoir, oil pump, oil storage reservoir, tire repair rack, tire tools or equipment, water hose connection or housing for same, any

mercantile business or any tools, stand, equipment or appurtenance thereof, any radio aerials, poles or wires for such aerials, whether permanent or temporary, or any other obstruction upon any part of any public street, alley, boulevard, parkway, sidewalk, curbing, or parking, or to put the same to any use for business purposes other than as elsewhere permitted by ordinance and provided the same is not contrary to the provisions of this section. (1983 Code)

**19-42:           BREAKING ANY STREET, ALLEY OR SIDEWALK:**

- A.** It shall be unlawful for any person, firm, or corporation to cut, dig, bore, blast, excavate, produce, or in any manner make or cause to be made, any hole, opening, ditch, displacement, depression, or impairment to the surface of any paving, paving curb, crossing, or walk in any street, alley, or sidewalk within the town of Chouteau, Oklahoma, without first making written application for a permit so to do on a form prescribed by the town clerk, to be approved by the town engineer, and first making a cash deposit with the town clerk in an amount named by the town engineer to guarantee the replacement, repair, and restoration thereof to its former condition, and also first securing from such town clerk written permit therefor. Said work, repair, or replacement shall be done under the supervision and direction of the town engineer. (1983 Code)

**19-43 :           OPEN DOORS:**

- A.** It shall be unlawful and an offense for any person to leave or keep any cellar door, manhole, or grating of any kind open in or upon any street or sidewalk or permit the same to be left or kept open. (1983 Code)

**19-44 :           BUILDING MATERIAL ON STREETS OR AVENUES:**

- A.** Every person who shall use or occupy any part of the street or avenue of the town for building material shall cause one or more red lights to be kept burning from sunset to sunrise on the front and at each side in such manner as to give notice of danger to all possible means of approach, so long as such material or obstruction remains. Those who fail to comply with any of the provisions of this section shall be guilty of an offense. (1983 Code)



**19-45 : EXCAVATIONS PROTECTED:**

- A. All excavations upon the front or side of any lot, adjoining the street or avenue or alley, or under any sidewalk in the town, shall be securely or properly guarded and protected by the person or persons having charge of the same, so as to prevent the same being or becoming dangerous to life and limb. Failure to do so shall be an offense. (1983 Code)

**19-46: REMOVING MATERIALS:**

- A. It shall be unlawful and an offense for any person to injure, remove, or displace any earth, stone, gravel, sand, or other material forming a part of any public highway, street, alley, sidewalk, road, or crosswalk within the corporate limits of the town without permission from the board of trustees to do so. (1983 Code)

**19-46.1: SIZE REQUIREMENTS FOR DRIVEWAY CULVERTS OR OTHER DRAINAGE STRUCTURES:**

- A. It shall be unlawful to set driveway culverts or other drainage structures of a size less than twelve inches (12") in diameter upon or adjacent to the public rights of way within the town limits. Violations are punishable as provided in section 19-47 of this chapter. (Ord. 95-7)

**19-46.2: PREEXISTING DRIVEWAY CULVERTS OR OTHER DRAINAGE STRUCTURES EXEMPTED:**

- A. All existing driveway culverts or other drainage structures located upon or adjacent to the public rights of way within the town limits may remain when any excavation or repair work is done at that location; provided, they are in good condition in the opinion of the street commissioner and of a size no less than eight inches (8") in diameter. Any such existing driveway culverts or other drainage structures of a size less than eight inches (8") in diameter must be replaced with one in conformity herewith when any excavation or repair work is done at that location. Violations are punishable as provided in section 19-47 of this chapter. (Ord. 95-7)

#### ARTICLE 4. PENALTY

**19-47 : VIOLATION; PENALTY:**

- A. Any person who violates any provision of this chapter, by doing any act prohibited or declared to be unlawful thereby, or declared to be a nuisance, an offense, or misdemeanor thereby, or who fails to do any act required by any such provision, or who fails to do any act when such provision declares such failure to be unlawful or to be an offense or misdemeanor, or who violates any legal order or regulation made pursuant to this chapter, or who maintains any nuisance as defined in this chapter, is guilty of an offense and, upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars (\$200.00). Each day upon which any violation continues, shall constitute a separate offense. (1983 Code)

#### ARTICLE 5. CLOSING PUBLIC WAY OR EASEMENT

**19-48 : PROCEDURES FOR CLOSING PUBLIC WAY OR EASEMENT:**

- A. Any person requesting that the town of Chouteau close a public way or easement shall file a written application seeking such action with the town clerk which shall contain a description of the public way or easement sought to be closed and shall state in the case of a public way whether it has been open to and used by the public.
- B. The matter shall be set for hearing before the board of trustees and notice shall be given to the public at the cost of the application by one publication in some newspaper of general circulation in the county where the land is situated with such notice to be published at least thirty (30) days prior to said hearing. Written notice also shall be given by the town clerk to any holder of a franchise or other determined by the board of trustees to have a special right or privilege granted by ordinance or legislative enactment to use the public way or easement sought to be closed at least thirty (30) days prior to said hearing.
- C. If the application seeks closing of a public way that has been open to and used by the public, notice shall also be given by mailing a copy of the application and notice of hearing by the applicant to all owners of record, as shown by the current year's tax rolls in the office of the

county treasurer, of property abutting and within three hundred feet (300') in each direction from the public way or easement sought to be closed. Attached to such application for closing of a public way shall be the certificate of a bonded abstractor listing the names and mailing addresses of all persons so required to be notified.

- D. At the hearing the board of trustees shall either approve the application, if deemed necessary or expedient, or deny it; and if approved, a duly constituted ordinance shall be approved indicating such action. (Ord. 84-7)