Chapter 62 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - STREET EXCAVATIONS

ARTICLE III. - SIDEWALK CONSTRUCTION AND REPAIR

FOOTNOTE(S):

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Charter reference— General powers of city, § 1.01.(Back)

Cross reference— Any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any road, street, sidewalk or alley saved from repeal, § 1-11(10); any ordinance establishing the grade of any road, street or sidewalk saved from repeal, § 1-11(11); consumption of alcoholic liquor in public place, § 6-5; possession of open container in public place, § 6-6; buildings and building regulations, ch. 18; peddlers, § 22-131 et seq.; solicitors, § 22-211 et seq.; cemeteries, ch. 26; community development, ch. 30; environment, ch. 34; floods, ch. 42; playing ball on streets or sidewalks or otherwise obstructing traffic, § 46-7; offenses against public peace and order, § 46-131 et seq.; parks and recreation, ch. 50; special assessments, ch. 58; subdivisions and other divisions of land, ch. 66; subdivision design standards for streets and alleys, § 66-91 et seq.; required improvements of sidewalks in subdivisions, § 66-138; required improvements of street trees in subdivisions, § 66-139; required improvements of street signs in subdivisions, § 66-140; telecommunications, ch. 74; traffic and vehicles, ch. 78; utilities, ch. 82; vegetation, ch. 86; work on trees in public places, § 86-36; standards for street trees, § 86-37; permit for planting or removal of trees in public places, § 86-38; waterways, ch. 90; zoning, app. A; building to be moved, app. A, § 3.20.(Back)

ARTICLE I. IN GENERAL

Sec. 62-1. Definitions.

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Sec. 62-13. Street names and building numbers.

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Sec. 62-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Street means all of the land lying between property lines on either side of all streets, alleys and boulevards in the city, and includes lawn extensions and sidewalks and the area reserved therefor where lawn extensions and sidewalks are not yet constructed.

(Code 1989, § 4.1)

Cross reference— Definitions generally, § 1-2.

Sec. 62-2. Damaging or obstructing streets.

No person shall make any excavation in or cause any damage to any street in the city, except under the conditions and in the manner permitted in this chapter. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this chapter, but this provision shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, or to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.

(Code 1989, § 4.2)

Sec. 62-3. Permits, insurance and bonds.

(a) Where permits are authorized in this chapter, they shall be obtained upon application to the city manager, upon such forms as he shall prescribe. The permit fee shall be as provided by the annual fee resolution adopted by the city council. Such permit shall be revocable by the city manager for failure to comply with this chapter, rules and regulations adopted pursuant to this chapter, and the lawful orders of the city manager or his duly authorized representative, and shall be valid only for the period of time endorsed thereon. Application for a permit under the provisions of this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in this chapter:

(1) On account of injury to, or death of, any person in any one occurrence: $250,000.00.

(2) On account of any one occurrence resulting in injury to, or death of, more than one person: $500,000.00.

(3) On account of damage to property in any one occurrence: $250,000.00.

A duplicate executed copy or photostatic copy of the original of such insurance policy shall be filed with the city clerk.

(b) Where performance bonds are required with the application for any permit under this chapter, the applicant shall furnish at his own expense a performance bond in an amount equal to the dollar value of the work to be performed or $5,000.00, whichever is greater, as determined by the city manager. The performance bond shall be for the sole benefit of the city and shall be conditioned upon the faithful performance of the work according to the application, the permit and all pertinent laws and regulations of the city in connection therewith, and shall be further conditioned upon the repair and restoration of the street surface and installations on, over or within such street, including trees.

(Code 1989, § 4.3)

Sec. 62-4. Removal of street encroachments by city; resolution permitting continuance of existing encroachment.

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting landowner when made or permitted by him or suffered to remain by him otherwise than in accordance with the terms and conditions of this chapter. The procedure for collection of such expenses shall be as prescribed in section 58-5. The city council may by resolution permit the continuance of an existing encroachment. No such resolution shall vest any permanent rights in the person owning or occupying the structure which encroaches upon the street.

(Code 1989, § 4.47)

Sec. 62-5. Temporary street closings.

The city manager shall have authority to temporarily close any street, or portion thereof, when he shall deem such street to be unsafe or temporarily unsuitable for use for any reason. He shall cause suitable barriers and signs to be erected on the street, indicating that the street is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over the street except as may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the city manager.

(Code 1989, § 4.48)

Sec. 62-6. Utility poles.

(a) For utility poles in existence prior to February 17, 2003, utility poles may be placed in such streets as the manager shall prescribe and shall be located thereon in accordance with the directions of the manager. Such poles shall be removed or relocated as the manager shall from time to time direct.

(b) Effective for all wire, cable and pipe installed after February 17, 2003, all telephone, electric, television, gas and similar services, distributed by wire, cable or pipe, shall be placed underground. Such conduits, pipes or cables shall be placed with private easements obtained by such service providers, or within dedicated public ways, provided, however, that overhead lines may be permitted upon written

recommendation of the public works director, planning commission and the approval of the city council where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, civic design and visual character of the community. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission. All drainage and underground utility installations which transverse privately owned property shall be protected by easements granted by the property owner.

(Code 1989, § 4.7; Ord. No. 252, § 1, 2-17-2003)

Cross reference— Utilities, ch. 82.

Sec. 62-7. Maintenance of installations in streets.

Every owner of, and every person in control of, any estate hereafter maintaining a sidewalk vault, coal hole, manhole, or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure, in, under, over or upon any street which is adjacent to or a part of his estate, shall do so only on condition that such maintenance shall be considered as an agreement on his part with the city to keep the structure and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his ownership or control thereof, and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.

(Code 1989, § 4.8)

Sec. 62-8. Curb cuts.

No opening in or through any curb of any street shall be made without first obtaining a written permit from the city manager. Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

(1) No single curb cut shall exceed 25 feet or be less than ten feet.

(2) The minimum distance between any curb cut and a public crosswalk shall be five feet.

(3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet.

(4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise shall be 45 percent of the total abutting street frontage up to and including 200 lineal feet of street frontage plus 20 percent of the lineal feet of street frontage in excess of 200 feet.

(5) The necessary adjustments to utility poles, light standards, fire hydrants, catchbasins, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the city.

(6) All construction shall be in accordance with plans and specifications approved by the city manager.

(Code 1989, § 4.15)

Sec. 62-9. Moving of buildings or large equipment.

No person shall move, transport, or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers, larger in width than eight feet eight inches or higher than 13 feet six inches above the surface of the roadway, across or along any street, alley or other public place in the city without first obtaining a permit from the city manager. Such permit shall specify the route to be used in such movement and no person shall engage in such movement along a route other than that specified in the permit. No house moving permit shall be granted until the applicant shall furnish a performance bond and file a liability insurance policy as required by section 62-3.

(Code 1989, § 4.31)

Cross reference— Buildings and building regulations, ch. 18.

Sec. 62-10. Obstructing street with materials or equipment incidental to construction work.

(a) No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to the street, or for any other purpose, without first obtaining a permit from the city manager. No permit shall be granted until the applicant shall furnish a performance bond and file a liability insurance policy as required by section 62-3.

(b) At least six feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians, and, if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter shall be provided around such obstruction.

(Code 1989, §§ 4.20, 4.21)

Sec. 62-11. Ice and snow.

(a) No person shall shovel or push by means of plow or otherwise cause to be placed or deposited in or upon the traveled portion of any street or sidewalk or within any ditch or gutter in any public street any snow or ice removed by him, or under his direction, from any private property or from any public property abutting any private property owned or occupied by him without first obtaining a permit to do so. The existence of any deposit of snow or ice deposited by artificial means in the traveled portion of any street or sidewalk or within any ditch or gutter in any public street shall be prima facie evidence that the occupant of the abutting property closest thereto placed or deposited the ice or snow therein.

(b) The city council may, by resolution, authorize the city manager to issue permits to abutting property owners and occupants to deposit snow within the street abutting their property. The city manager shall establish the fee for such permit, which shall be proportionate to the size of the parcel from which the snow and ice is to be removed and deposited within the street. The city manager shall make such further regulations as shall be necessary in order to properly manage the removal of such additional snow so deposited within city streets. No permit owner shall fail to comply with all such regulations.

(c) The occupant of every lot or premises adjoining the following streets in the downtown district: Dowling Street from the White River Bridge to Meade Street, Water Street from Knudsen Street to Walsh Road, Spring Street from Water Street to Park Street, Ferry Street from Hunt Street to Church Street, and Church Street from Ferry Street to Water Street, or the owner of such lot or premises, if the premises are not occupied, shall clear all ice and snow from sidewalks adjoining such lot or premises within the time required in this section. When any snow or ice shall cease to fall during the daylight hours, such snow or ice shall be cleared from the sidewalks within 12 hours after such cessation. When a fall of

snow or ice shall have ceased during the nighttime, it shall be cleared from the sidewalks by 6:00 p.m. of the day following. If any such occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his premises within the time limited, or shall otherwise permit ice or snow to accumulate on such sidewalk, he shall be guilty of a violation of this chapter and, in addition, the city manager may cause the ice or snow to be cleared and the expense of removal shall become a debt to the city from the occupant or owner of such premises, and shall be collected as any other debt to the city.

(Code 1989, §§ 4.36, 4.37, 4.71, 4.72)

Sec. 62-12. Marquees and similar structures.

No person shall erect or maintain any marquee, canopy, banner, awning, clock or other structure or object so it projects over or upon the limits of any street or alley without first obtaining a permit and filing a liability insurance policy as required by section 62-3. Every liability insurance policy required by this section shall be maintained by the permittee permanently in force. Every such insurance policy shall contain a clause obligating the insurer to give the city clerk, by registered or certified mail, at least ten days' written notice before the cancellation, expiration, lapse or other termination of such insurance and such liability policy shall name the city as an additional named insured. No such permit shall be granted unless the proposed plans for the marquee or other structure shall be in conformity with the state construction code. If the marquee or other structure shall thereafter be found unsafe or is not maintained in a sightly condition, or if the liability insurance policy covering such marquee or other structure is not maintained, such marquee or other structure shall be deemed a street encroachment. The city manager shall notify the permittee to remove or repair such marquee or other structure within ten days or to reinstate the insurance forthwith, and upon failure of the permittee to comply with the notice such encroachment shall be removed as provided in this chapter. No such marquee or other structure shall be erected or maintained so as to be less than eight feet above the surface of the sidewalk.

(Code 1989, § 4.41)

Sec. 62-13. Street names and building numbers.

The names of the streets and numbers of home and building sites in the city, as shown on a certain map dated December 4, 1950, and designated "Street Names and House Numbering Map of the City of Montague, Michigan," prepared by Alfred Hansen, Engineer, now on file in the office of the city clerk, are hereby adopted as the official street names and house numbering system of the city. Such map may be amended from time to time by resolution of the city council.

(Code 1989, § 4.51)

Secs. 62-14—62-40. Reserved.

ARTICLE II. STREET EXCAVATIONS

DIVISION 1. - GENERALLY

DIVISION 2. - PERMIT

DIVISION 1. GENERALLY

Sec. 62-41. Safeguards.

Sec. 62-42. Shoring.

Sec. 62-43. Backfilling.

Secs. 62-44—62-60. Reserved.

Sec. 62-41. Safeguards.

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with approved warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and warning lights parallel to the flow of traffic shall not be over 15 feet apart.

(Code 1989, § 4.26)

Sec. 62-42. Shoring.

All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

(Code 1989, § 4.27)

Sec. 62-43. Backfilling.

All trenches in a public street or other public place, except by special permission, shall be backfilled with approved granular material to within 12 inches of the surface. On main thoroughfares, this material shall contain one sack of cement per yard of fill. The remaining portion shall be filled with road gravel as specified by the city manager.

(Code 1989, § 4.6)

Secs. 62-44—62-60. Reserved.

DIVISION 2. PERMIT

Sec. 62-61. Required; bond and insurance.

Sec. 62-62. Emergency work.

Secs. 62-63—62-90. Reserved.

Sec. 62-61. Required; bond and insurance.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the city manager. No permit shall be granted until the applicant shall furnish a performance bond and file a liability insurance policy as required by section 62-3.

(Code 1989, § 4.4)

Sec. 62-62. Emergency work.

The manager may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this chapter shall be complied with.

(Code 1989, § 4.5)

Secs. 62-63—62-90. Reserved.

ARTICLE III. SIDEWALK CONSTRUCTION AND REPAIR

Sec. 62-91. Generally.

Sec. 62-92. Collection of costs.

Sec. 62-93. Reports to council.

Sec. 62-94. Authority of council to order construction, repair or other work.

Sec. 62-95. General standards.

Sec. 62-96. Grade determination.

Sec. 62-97. Sidewalks with established grade.

Sec. 62-98. Notice to construct or repair.

Sec. 62-99. Construction by city upon failure to comply with notice.

Sec. 62-100. Collection of costs incurred by city; service of notices.

Sec. 62-91. Generally.

All sidewalks within the limits of the city may be graded, constructed and repaired, and the expenses thereof provided for and collected, according to the provisions of this article.

(Code 1989, § 4.61)

Sec. 62-92. Collection of costs.

The expense of grading, constructing and repairing such sidewalks (except where the sidewalks are graded, constructed and repaired by the owner, agent or occupant of the premises contiguous thereto) shall

be assessed to, levied upon and collected from the owner upon the premises contiguous to such sidewalk as provided for single lot assessments in section 58-5 and city's assessment policy for sidewalk repair.

(Code 1989, § 4.62)

Sec. 62-93. Reports to council.

The city manager shall notify the city council in writing of all sidewalks needing repairs and of all the places where new sidewalks should be constructed, and shall keep the city council informed at all times as to the condition of the sidewalks within the city.

(Code 1989, § 4.63)

Sec. 62-94. Authority of council to order construction, repair or other work.

The city council may, by resolution, order the grading, constructing, raising, lowering, re-laying, or repairing of any sidewalks required to be graded, constructed, raised, lowered, re-laid, or repaired in the city, and the city council may, by resolution, at any time alter or change the grade of any sidewalk in the city whenever in its judgment a change in grade is required.

(Code 1989, § 4.64)

Sec. 62-95. General standards.

All sidewalks hereafter constructed shall conform to the specifications in this article and as set by resolution.

(Code 1989, § 4.65)

Sec. 62-96. Grade determination.

Whenever the city council shall order any sidewalk to be graded, constructed, raised, lowered, re-laid or repaired and the street on which such sidewalk is to be laid, graded, constructed, repaired, raised or lowered has not been graded, the city manager shall cause such a grade to be established and shall present a profile estimate and specifications to the city council of the sidewalk to be raised, lowered, re-laid, or repaired, in accordance with the resolution of the city council.

(Code 1989, § 4.66)

Sec. 62-97. Sidewalks with established grade.

In case the street upon which the sidewalk is to be built, repaired, re-laid, lowered or raised has been surveyed and the grade of the sidewalk established, all such sidewalks shall be built, repaired, re-laid, lowered or raised according to the grade as already established, and no other survey shall be deemed necessary.

(Code 1989, § 4.67)

Sec. 62-98. Notice to construct or repair.

It shall be the duty of the city manager to notify, or cause to be notified, the owner, agent or occupant of any lot or description of land in front of or contiguous to a proposed sidewalk to be built, raised, lowered, re-laid, or repaired, as the case may be, in writing.

(Code 1989, § 4.68)

Sec. 62-99. Construction by city upon failure to comply with notice.

If the owner, or party to whom such improvement is to be assessed, shall refuse or neglect to build, repair, raise, lower or re-lay such sidewalk, it shall be the duty of the city council then to pass a resolution which shall contain a copy of the notice so served and also embody therein the manner of service as returned by the city manager instructing the city manager to at once cause it to be done according to the resolution authorizing the improvement, and the cost and expense thereof shall be a lien upon the lot or premises in front of or contiguous to which such a walk is required to be built, raised, lowered, repaired or re-laid, and the cost and expense shall be collected as a single lot assessment as prescribed in section 58-5 and the city's assessment policy for sidewalk repair.

(Code 1989, § 4.69)

Sec. 62-100. Collection of costs incurred by city; service of notices.

(a) The city manager shall keep an itemized account of the total cost of such walk under section 62-99, and verify the cost and file it with the city council, and the amount so verified shall be the amount to be assessed and collected against the lot or premises, and the cost so made shall be paid out of the contingent fund and when the taxes are collected they shall be credited to the contingent fund.

(b) For the purpose of serving the notice provided for in this article, the party to whom the lot or premises are assessed shall be deemed owner thereof, and in case it is assessed "Owner Unknown," and the name of the owner cannot be ascertained, proof of the fact filed with the city council shall be sufficient, and after the expiration of the time mentioned in the notice for the city council to have the notice published in a newspaper published and circulated in the city not less than three weeks in succession, and on filing of the affidavit of such publication with the city council, the same proceedings shall thereafter be had as if there had been personal service. When the owner is known, but resides outside of the city, service may be made by registered letter, and on filing of proof of reception of the notice of the registered letter, then the same proceedings shall be had as in the case of personal service.

(Code 1989, § 4.70)