

SECTION 8

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Chapter 24

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

- Art. I.** In General, §§ 24-1—24-15
Art. II. Sidewalks, §§ 24-16—24-40
Art. III. Openings and Excavations, §§ 24-41—24-60

ARTICLE I. IN GENERAL

Sec. 24-1. Placing snow or ice on street or sidewalk.

(a) No person shall shovel or push by means of a 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 within the city, 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 except as herein provided. The existence of any deposit of snow or ice deposited by artificial means in or upon 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 said ice or snow therein.

(b) Any person may deposit snow or ice from such property and pile same in a public street, but only along, parallel with, and as a part of the bank of snow formed by the city in its snow plowing operations. Such snow or ice shall be piled on the bank immediately in front of and adjacent to the property so owned or occupied and in no event shall the snow or ice so placed extend more than two (2) feet further into the roadway than the existing bank.

(c) No such person shall take or remove, or cause to be removed, any snow, ice or other material from any public walk or from the banks of snow formed by the city in its plowing operation and pile or dump same within the street right-of-way in such manner as to reduce the width between the banks of snow formed by the city in its plowing operations by more than two (2) feet or to a height exceeding five (5) feet.

(d) Snow, ice or other material moved, piled or dumped in violation of this section may be removed by the city and the expense of such removal charged to the party found in violation of this section.

(Code 1969, § 93.16)

Charter reference—Removal of snow and ice at the expense of the abutting property owner, Ch. XI, § 26.

Cross reference—Sidewalks and driveways, § 6-112 (Section PM-303.3).

***Charter reference**—Streets and sidewalks, Ch. XII.

Cross references—Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city saved from repeal, § 1-11(11); any ordinance establishing or prescribing grades in the city saved from repeal, § 1-11(12); department of public works, § 2-29; advertising and signs, Ch. 3; buildings and building regulations, Ch. 6; fences and hedges, Ch. 11; flood damage prevention, Ch. 13; harbor and marina, Ch. 15; mobile homes and trailers, Ch. 16; parks and recreation, Ch. 19; planning, Ch. 21; subdivision regulations, Ch. 25; traffic and motor vehicles, Ch. 27; utilities, Ch. 28; vehicles for hire, Ch. 30; zoning, App. A.

Secs. 24-2—24-15. Reserved.

ARTICLE II. SIDEWALKS

Sec. 24-16. Defined.

When used in this article, the word "sidewalk" shall mean any walkway for pedestrians located on the right-of-way of a public street or highway and parallel to the street or highway. (Code 1969, § 93.01)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 24-17. Construction specifications; permit required.

No person shall construct, repair, rebuild or remove any sidewalk within the city, except in accordance with the line, grade, slope and specifications established by the engineering department, nor without first obtaining a written permit from the city manager. (Code 1969, § 93.02(A))

Sec. 24-18. Unlawful marking.

It shall be unlawful for any person to write, print or mark with paint, chalk, or any other substance upon the sidewalks of this city. (Code 1969, § 93.02(B))

Sec. 24-19. Duty of property owners concerning sidewalks.

All owners or agents of owners with property abutting and fronting upon any plaza, street or alley in the corporate limits of the city are required to keep the public sidewalks immediately abutting their property in good order and repair. Each such owner shall be liable to the city for all losses to the city or recoveries from the city for damages to person or property of others caused by his failure or that of his agents to repair and keep in good order and reasonably safe condition all such sidewalks abutting and fronting his property upon any plaza, street or alley within the corporate limits of the city. (Code 1969, § 93.03)

Sec. 24-20. Notice to repair or rebuild.

Periodic inspections of sidewalks shall be ordered by the city manager, and when sidewalks have been found to have been neglected by the property owner and/or have become unsafe, notice may be given to the owner of the lot or premises adjacent to and abutting upon the sidewalk of such determination, which notice shall be given in accordance with section 24-26. Thereafter, it shall be the duty of the owner to place the sidewalk in a safe condition. Such notice shall specify a reasonable time, not less than seven (7) days within which such work shall be commenced, and shall further provide that the work shall be completed with

due diligence. If the owner of such lot and premises shall refuse or neglect to repair said sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this article, the city manager shall have the sidewalk repaired. If the city manager determines that the condition of the sidewalk is such that immediate repair is necessary to protect the public, he may dispense with the notice. The cost of repairs hereunder shall be charged against the premises which the sidewalk adjoins and the owner of the premises, and shall be collected as provided in section 24-27.

(Code 1969, § 93.04)

Sec. 24-21. Ordering construction.

The city council may, by resolution, require the owners of lots and premises to build sidewalks adjacent to and abutting upon such lots and premises. When such resolution shall be adopted, the city manager shall give notice thereof, in accordance with section 24-26, to the owner of such lot or premises, requiring him to construct or rebuild such sidewalk within twenty-one (21) days from the date of such notice.

(Code 1969, § 93.05)

Sec. 24-22. Construction by city.

If the owner of any lot or premises shall fail to build any particular sidewalk as described in the notice, and within the time and in the manner required thereby, the city manager is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, to cause such sidewalk to be constructed and the expense thereof shall be charged to such premises and the owner thereof, and collected as provided in section 24-27.

(Code 1969, § 93.06)

Sec. 24-23. Requirements for sidewalk construction.

(a) *Applications.* All sidewalks shall be constructed, built and repaired in accordance with the provisions of this article. This article shall apply to all sidewalks constructed, built or repaired by the property owner or any agent of the property owner.

(b) *City engineer in charge; time work done.* All work done under the provisions of this article shall be in charge and hereby is delegated to the city engineer, except the matter of the application and permit hereinbefore referred to, which shall be under the jurisdiction of the city manager. All construction work shall be done between April fifteenth and October fifteenth of each year, except with special permission of the city engineer.

(c) *Permits; completion of work; inspections.* Before any work is commenced or any walk built, an application for a permit for each separate job must be made to the city manager, on blanks furnished for that purpose by the city, by the person who is to do and perform the work. Work contemplated under any permit must be completed within sixty (60) days and the city engineer must be notified at least twenty-four (24) hours in advance of the commencement of operations. The engineering department shall keep a file of the permits issued and shall make periodic inspections of the current sidewalk projects.

(d) *Grade.* When completed the top surface of all sidewalks shall coincide with the grade of the space between the curblines and the street line. In case of unpaved streets, the line and

grade as established by the city shall prevail; to take care of surface drainage a slope of one-quarter inch per foot of width of the walk so that the water will drain towards the street.

(e) *Commencement of work.* All surplus earth must be removed from the job and disposed of within seven (7) days after the sidewalk is installed.

(f) *Foundation.* The contractor shall provide a template of an approved type for checking the subgrade, this template to be the full width of the sidewalk and exact depth of the concrete; this template to be kept on the work at all times. No concrete shall be laid until the foundation has been checked with this template and brought to grade. Wherever a fill is required, sand, stone, gravel or cinders shall be used. This fill must be well compacted by rolling, tamping, soaking with water or other approved methods and must extend at least six (6) inches beyond the edges of the sidewalk.

(g) *Sidewalk proper.* When the grading has been completed to the satisfaction of the city, the sidewalk proper shall be laid; this shall be a layer of one course concrete, not less than four (4) inches thick in residential districts, and not less than five (5) inches thick in the business district. Residential driveways shall not be less than six (6) inches thick.

(h) *Concrete.* The concrete shall contain not less than five and one-half (5½) bags of air entrained cement with a minimum two thousand five hundred (2,500) pounds per square inch, twenty-eight (28) day strength, one (1) to three (3) inch slump aggregate, which shall be free of all impurities and deleterious material.

(i) *Finishing.* As soon as free mortar appears, a straight edge template shall be used as a strike off across the two (2) forms to ensure a true surface. The work is then to be finished from a suitable bridge using: a wooden trowel to compact the concrete where necessary and a steel trowel to put a smooth finish on the entire walk. The surface shall then be brushed lightly with an ordinary broom in order to give a slightly rough surface. The edges of the flags or squares shall be turned down with an edger having a radius not to exceed one-fourth inch.

(j) *Forms.* Forms may be of wood or steel and firmly set with the inside form to the grade set by the engineer.

(k) *Expansion joints.* All concrete sidewalks shall have expansion joints at lot lines placed at right angles to the forms and extending to the bottom of the forms except where the distance between the lot lines is more than one hundred (100) feet, additional expansion joints shall be placed so that in no case the distance between expansion joints shall be more than one hundred (100) feet. All expansion joints shall be of prepared expansion paper strips not less than three-eighths of an inch, nor more than one-half inch in thickness. When in place, this paper must be to the top of the finished surface of the walk. At intervals of five (5) feet nor more than seven (7) feet shall be placed steel dividers, one-fourth of an inch thick, at right angles to the forms and extending one (1) inch into the concrete. These dividers must not be removed until the concrete is sufficiently set to prevent slumping. The dividers shall then be removed and a double edger used to finish the walk.

(l) *Protection of walk.* All completed walks must be protected by suitable barricades of a type approved by the engineer. The finished walk must be protected against the elements,

particularly rain, to prevent pitting. Finished work must be kept wet or covered with curing compound for at least three (3) days to allow for proper curing. All barricades must be properly protected by red lights or flares during darkness, by the contractor.

(m) *Engineer's stakes.* The work to be done shall be staked out by the city engineer where necessary, and any stakes broken or removed through carelessness will be replaced by the city engineer at the estimated replacement cost. The contractor shall give twenty-four (24) hours notice when the services of an engineer are required. All shutoff boxes, manholes, coal holes, receiving basins, platforms, covers and any other fixtures must be set to the true surface of the walk before any concrete is placed.

(n) *Width of walks.* The width of walks shall be:

- (1) In residential districts: four (4), five (5) feet or six (6) feet.
- (2) In business districts: six (6) to sixteen (16) feet.

As new areas develop the council shall establish a policy as to the width of sidewalks in that area.

(o) *Patents.* The contractor shall protect the city and the owner of the walk from all claims for patented articles, processes, materials, inventions and appliances used on the work.

(p) *Two (2) course sidewalks.* Two (2) course walks shall never be used.
(Code 1969, § 93.07)

Sec. 24-24. Work constructed in violation of article.

Any work installed or constructed which shall not be in conformity with the provisions of this article shall, when found by the city, be immediately removed within twenty-four (24) hours by the person doing the work, and if upon the failure of the person to remove and pull out the work so done in violation of the provisions of this article, the city shall forthwith cause all the defective work and work done in violation of this article to be removed, and the person doing the work shall be liable to the penalties provided for in this article.

(Code 1969, § 93.08)

Sec. 24-25. Reserved.

Editor's note—Ch. II of Ord. No. 932, adopted Dec. 4, 1997, repealed § 24-25 in its entirety. Formerly, § 24-25 pertained to sidewalks to be cleared of ice and snow and derived from §§ 93.09 and 93.10 of the 1969 Code.

Sec. 24-26. Service of notice.

Wherever in this article it shall be provided that notice be served, such notice shall be served as follows:

- (1) By delivery of a copy of the notice to the owner personally or by leaving the same at his residence, office or place of business with some person of suitable age and discretion;
or

- (2) By mailing a copy of the notice by certified mail to such owner at his last known address; or
- (3) If the owner is unknown or cannot be otherwise served, by posting a copy of the notice in some conspicuous place on the premises for a period of five (5) days. No person shall interfere with, obstruct, mutilate, conceal, or tear down any notice posted in accordance with this section unless permission be first obtained from the official posting the notice.

(Code 1969, § 93.11)

Sec. 24-27. Levying and collection of assessments.

(a) When any expense shall have been incurred by the city upon or in respect to any single premise, which expense is chargeable against such premise and the owner thereof under the provisions of the Charter, any ordinance of the city, or law of the state, and is not of that class required to be prorated among several lots and parcels of land in a special assessment district, an account of the labor, material or service for which such expense was incurred, and the name of the owner, if known, shall be reported to the city controller who shall immediately charge and bill the owner, if known. Such bill shall be sent by first class mail to the owner of the property to be assessed and such bill shall notify the owner of the time of the meeting of the council, not sooner than thirty (30) days thereafter, when the council will meet for the purpose of adopting a resolution placing a special assessment upon the property for such charges unless the same are paid prior to the date of such meeting. At such meeting the council shall adopt, in accordance with the Charter, a special assessment resolution covering such parcel of land for which such charges have not been theretofore paid in full. As many parcels may be included in a single resolution as shall be convenient. Upon adoption of such resolution the council may authorize installment payments, and if installment payments are authorized, shall determine the number of installments and the rate of interest to be charged thereon, but not to exceed the maximum legal rate.

(b) The special assessment provided above shall, from the date of confirmation by the council, constitute a lien upon the respective lots or parcels of land assessed, and until paid

shall be a charge against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for city taxes and shall include accrued interest and penalties. No judgment or decree, or any act of the council vacating a special assessment, shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

(Code 1969, § 93.12)

Sec. 24-28. Obstruction of sidewalk; exceptions.

It shall be unlawful, within the city, for any person to display merchandise or place any object or obstruction upon the sidewalk in front of the buildings or premises used by them; provided, however, that the city manager may, upon good cause being shown, grant a permit for a limited period of time not to exceed twelve (12) months, for the use of the sidewalk for private use, provided the use does not interfere with the public use of the sidewalk.

(Code 1969, § 93.15; Ord. No. 860, Ch. 1, 9-17-92)

Sec. 24-29. Enforcement.

The city manager is hereby authorized and directed to enforce all the provisions of this article.

(Code 1969, § 93.14)

Secs. 24-30—24-40. Reserved.

ARTICLE III. OPENINGS AND EXCAVATIONS*

Sec. 24-41. Permit required.

(a) Unless acting under a contract with the city and excluding city owned utilities no person, his servant or agent, shall make any openings or excavations or occupy any street, alley or public right-of-way in the city for any purpose whatever, until a permit therefor shall have been obtained from the city manager or his duly authorized agent.

(b) The person shall make application to the city manager or his duly authorized agent at least twenty-four (24) hours before the time proposed to begin such work, which shall fully set forth the extent, nature, purpose and location of the proposed operation in the streets or alleys, as near as can be determined.

(Code 1969, §§ 93.31, 93.32)

Sec. 24-42. Completion time.

The permit under this article shall describe the time within which the work described in the application shall be completed, and the length of time thereafter within which the streets and alleys shall be restored to a condition satisfactory to the department of public works, and

***Charter reference**—Replacing street openings, Ch. XIII.

the applicant shall complete the work and effect the restoration of the street, alley or sidewalk within the time limited in the permit.

(Code 1969, § 93.33)

Sec. 24-43. Fee.

Permits for work under this article shall be issued only upon the payment of a permit fee of one dollar and fifty cents (\$1.50).

(Code 1969, § 93.34)

Sec. 24-44. Bonds.

All street repair work shall be done by the city under the direction of the city manager, or his duly authorized agent, provided, however, that any public utility which shall deposit with the city clerk a bond in the amount of one thousand dollars (\$1,000.00) shall be permitted to resurface at its own expense all excavations under the supervision of the city manager or his duly authorized agent. All work shall be guaranteed for a period of three (3) years from the time when such refilling or paving is made to a condition equal to its previous condition.

(Code 1969, § 93.35)

Sec. 24-45. Deposit required.

Before a permit shall be issued under this article, the city manager shall require of the applicant a deposit of such sum of money as shall be deemed by the city manager sufficient to cover and pay all the expenses for furnishing such material, doing such work, making such inspection and taking such means as shall be required properly to restore and secure against settlement of the street, alley or sidewalk, pavement, curb and gutter necessary to be replaced in consequence of making such excavation, opening or disturbance.

(Code 1969, § 93.36)

Sec. 24-46. Emergency street and alley cuts.

In case of an emergency arising out of office hours when an immediate excavation may be necessary, the same shall be reported to the department of public safety, which shall grant permission to make the necessary excavation upon the express condition that an application be made before noon of the next following business day.

(Code 1969, § 93.37)

Sec. 24-47. Guarding excavations and obstructions.

Any person making or causing to be made an excavation or opening in any street, alley, sidewalk or other public place, or within five (5) feet of the line of any street, or public place, shall, between sunset and sunrise on every night that the same remains open or danger exists therefrom, keep such excavation or opening fenced or barricaded and properly lighted so as to warn all persons of such excavation or opening and all obstructions. No unauthorized person

shall remove or interfere in any way with any such lantern, electric light bulbs or other danger signal or any such barriers. (Code 1969, § 93.38)

Sec. 24-48. Public utilities to be notified.

Whenever it becomes necessary to tunnel under utility installations, such as tracks, mains, ducts, pipes, etc., notification must be given to that utility, and it shall be the duty of the applicant to properly protect such other utility property in a safe condition so that the public may not be endangered or unnecessarily inconvenienced. At no time will a utility or contractor be permitted to build on top of other utility property or be permitted to use backfill materials that have a deleterious effect upon subsurface pipes and structures, which might damage such other property, unless an agreement has been reached between the utilities and a type of construction agreed upon that shall at all times safeguard the public interest. (Code 1969, § 93.39)

Sec. 24-49. Backfill requirements.

The excavated material, if suitable and in proper condition, may be used for backfilling openings in paved streets and alleys, except when otherwise directed by the city manager. The backfilling of all openings shall be made as directed by the city manager or his designated agent. (Code 1969, § 93.40)

Sec. 24-50. Specifications by city.

Replacement of all pavements, sidewalks and curbs disturbed in the making of an opening in street or alley shall be done in accordance with the standard specifications of the city, and notice shall be given to the city manager or his duly authorized agent when the work is completed. (Code 1969, § 93.41)

Sec. 24-51. Protection of the city from liability resulting from permit operations.

The person to whom a permit shall be granted under this article shall do no injury in any street, avenue, alley, lane, sidewalk, park or other public place or to any shade trees, shrubs, lawns, concrete paving or sidewalk, or other like improvement, or in any manner disturb or interfere with any sewer, water main, pipe or conduit, any other public or private appliances now or hereafter laid or constructed by any authorized person shall fully indemnify and save harmless the city from any and all claims and damages for which the city might be made or become liable to pay by reason of the construction, maintaining, or repairing, or operating the poles, conduits, wires, mains, pipes, or any apparatus connected therewith or otherwise arising from the use or possession of any of the rights and privileges granted, or from any neglect on the part of the person, or of his employees to comply with the provisions of this article and especially shall indemnify the city and assume all liability and damages which may arise, come or occur to the city from any injury to persons or property from the doing of any work herein mentioned, or the neglect of any person or his employees to comply with the provisions of this article or other provisions relative to the use of streets; or other public places,

especially as to the putting up of lights or barriers at or around excavations; and the acceptance by any person of any permit under the provisions of this article shall be an agreement by it to pay to the city any sum of money for which the city may become liable from or by reason of such injury; provided such person shall be given written notice of any and all formal claims, suits and demands filed with the city within thirty (30) days after receipt of same, and shall be given an opportunity to defend the same.
(Code 1969, § 93.42)

Sec. 24-52. Failure to comply with regulations.

In case any person to whom a permit has been granted under this article shall fail to comply with the terms thereof, such permit shall become null and void, and any and all expense which may be incurred by the city in refilling the excavation or restoring the street or sidewalk to its proper condition shall be borne by the permittee. In case the person to whom a permit is granted shall fail to leave the street or sidewalk in as good condition as it was previous to any work being done under the permit, any and all expense which may be incurred by the city in restoring the street to its proper condition shall be borne by the permittee.
(Code 1969, § 93.43)

Sec. 24-53. Duties of department of public safety.

All public safety officers shall be vigilant in the enforcement of this article, and shall report through proper channels any violation thereof to the city manager on observing or being informed of the opening of or excavation in any street, and shall require the person making such opening or excavation to exhibit the permit therefor; and, if none has been given, or if the exhibition thereof be refused, the officer shall, without delay, enforce the provisions of this article.
(Code 1969, § 93.44)

Secs. 24-54—24-59. Reserved.

Sec. 24-60. Municipal civil infraction; penalties and sanctions.

A person who violates any provision of Chapter 24 is responsible for a municipal civil infraction subject to payment of a civil fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00), plus costs and other sanctions for each infraction. Repeat offenses shall be subject to all of the provisions of section 1-13 of this Code.
(Ord. No. 919, § 5, 9-19-96)