

PUBLIC STREETS AND RIGHTS-OF-WAY ORDINANCE.

Ordinance #9-9-1999-E

As amended 7-14-2011

Declaration of Purpose.

The purpose of this public streets and rights-of-way ordinance is to regulate and control the use of public streets, sidewalks, approaches and rights-of-way and to establish standards pertaining to the installation of improvements within the public streets and rights-of-way.

Definitions

Unless otherwise indicated, the terms used in this Ordinance are defined as follows:

- (a) Alley - A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.
- (b) Approach - A hard surfaced area connecting a street with an off-street parking area, truck well, maneuvering lane or driveway as defined herein or defined in the Zoning Ordinance.
- (c) Curb - A part of the street usually of the same elevation as the center of the street, which is parallel to the street which separates the portion of the roadway established for vehicular traffic from the adjacent greenbelt area.
- (d) Right-of-Way - The area dedicated or used by the public for vehicular or pedestrian traffic and for the placement of public or private utilities, including sanitary sewers, storm drains, water mains and storm ditches.
- (e) Sidewalk - A slab of concrete generally parallel with the street and usually located one (1) foot from the property line in the public right-of-way.
- (f) Street - That portion of a public thoroughfare improved, designed or ordinarily used for vehicular traffic, including curbs on paved roads and shoulders on unimproved thoroughfares.
- (g) Utility Company - Any public or private corporation holding or exercising a franchise in the Village of Nashville for the distribution of natural gas, water, electricity, cable television or other such services within the Village.

General Permit Requirements.

- A. It shall be unlawful to construct or lay any pavement for any public street, sidewalk, alley, approach or other public right-of-way, to repair the same, to make any excavation within the public right-of-way, excluding snowplowing, or to construct any improvement within the public right-of-way without first having secured a permit from the Village.
- B. It shall be unlawful to install, place, erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, or other structures within the public right-of-way.

- C. It shall be unlawful to install, construct or place any earthen mound with a grade variance of more than six (6") inches, boulders, shrubs, trees, landscape forms or sculptures exceeding six (6") inches in height within the public right-of-way.
- D. It shall be unlawful to remove or alter any pavement, tree, street identification sign or marker, lawn, fire hydrant or other improvement placed in the right-of-way by the Village of Nashville without first obtaining a permit from the village.
- E. It shall be unlawful to install any utility poles, towers, water mains, and sewers. Pipes, culverts, sidewalks, or any other such structure within the public right-of-way without first securing a permit from the village.
- F. Unless a permit has been authorized by the DPW Superintendent and issued by the Village Office, it shall be unlawful to establish any roadside stand within the public right-of-way, nor shall any person sell anything within such public right-of-way.
- G. It shall be unlawful to store trash containers for more than 24 hours before or after trash pickup day or any other personal item(s) including a vehicle at any time within the public right-of-way.

Street Cuts and Excavations.

- A. Except as otherwise provided herein, it shall be unlawful to grade, re-grade, reshape, modify, or alter the surface grade of any street or public right-of-way without first obtaining a permit pursuant to the provisions of this Ordinance.
- B. It shall be unlawful to do any grading or other activity within the public right-of-way that creates a nuisance or contributes to the accumulation of standing water which constitutes a safety or health hazard.
- C. It shall be unlawful to make any excavation or opening in or to tunnel under any street, roadway or any portion of a public right-of-way without first obtaining a permit pursuant to the provision of this Ordinance. The DPW Superintendent may, if the public safety requires, grant immediate permission to a person to make a necessary opening or excavation within the public right-of-way provided that a permit required by this Ordinance is obtained on the next following business day.
- D. It shall be unlawful to install, replace or alter a driveway approach, sidewalk, culvert, enclose a ditch or make a sewer or water tap without first securing a permit in accordance with the provisions of this Ordinance and other ordinances of the Village.
- E. It shall be unlawful to construct, alter or cut any opening in or through any curb in any street or public right-of-way without first obtaining a permit pursuant to the provisions of this Ordinance.

- F. All openings, excavations or obstructions in a street, sidewalk or any portion of the public right-of-way, shall be properly barricaded and illuminated with barriers and flashing beacons as required by the State of Michigan Manual of Traffic Control Devices to prevent injury or damage to persons or vehicles. Flashing beacons shall be installed at all construction sites to provide adequate notice and warning to both pedestrians and vehicular traffic.
- G. All openings, excavations and tunnels in a street, sidewalk or any portion of the public right-of-way shall be properly shored and braced in accordance with all standards promulgated by the Occupational Safety and Health Administration (OSHA) and the Michigan Occupational Safety and Health Administration (MIOSHA), to insure the safety of all workers and prevent cave-ins and washouts which would likely cause damage to the surface grade of the street or adjoining portions of the public right-of-way. If it appears that there is a danger to the public safety, the Village has the authority to install any and all barricades, warning signs and other such devices that it may deem necessary and may charge the permit holder for such fees and costs incurred in protecting the public. The Village shall undertake no liability for private construction activities occurring within any portion of the public right-of-way.
- H. The DPW Superintendent or his designate shall have authority to temporarily close any street, sidewalk or right-of-way when it is deemed an unsafe condition, or if the street, sidewalk or right-of-way is unsuitable for use. Barriers and signs shall be erected indicating that the street, sidewalk or right-of-way is closed to public travel. It shall be unlawful to drive or travel over such portion of the street, sidewalk or right-of-way closed to the public travel, except when such travel is incident to repair construction or maintenance work performed therein.
- I. It shall be unlawful to interfere with or disturb any barricade, fencing, signs or lights lawfully placed to protect, mark or illuminate any obstruction, excavation, repair site or opening in any street, sidewalk or any portion of the public right-of-way.

Sidewalks

- A. It shall be unlawful to install, construct, repair or reconstruct any sidewalk within the public right-of-way without first having secured the permission of the Village and having secured a permit as required under this Ordinance or any other applicable Ordinance.
- B. The Village Council may order the construction, reconstruction or repair of sidewalks in any designated area within the Village if in the interest of the health, safety and welfare of the public; or perform or have performed on its behalf the construction, reconstruction or repair on such terms and conditions as the Village Council deems appropriate.

- C. The Village Council shall determine whether the sidewalks to be constructed, reconstructed or repaired shall be paid for by agreement with the abutting property owners, invoice, or by special assessment to the abutting property owners or by some other arrangement.
- D. All sidewalks within the Village shall be kept and maintained in good repair by the owner of the land and premises adjacent to and abutting upon the same. Regularly, the DPW Superintendent will inspect village sidewalks and prepare a list for replacement the following year. The Village Council prior to seeking bids will approve the replacement list. All property owners will be notified by letter that sidewalk replacement is planned and the anticipated cost.

Application Procedure

- A. Application for a permit under the terms and conditions of this Chapter and any other applicable provision of the Village Ordinance shall be made on forms provided by the Village, and shall be accompanied by plans and specifications showing the proposed work to be performed within the public right-of-way.
- B. Application for a permit shall not be approved unless it contains all of the required information, is accompanied by required plans, which conform to the applicable provisions of the Village Ordinances and Regulations and is accompanied by the payment of the application fee as established by resolution of the Village Council. The proposed plans and specifications shall be reviewed by appropriate Village departments depending on the nature of the work to be performed.

Bond and Hold Harmless Requirement

As a condition of obtaining a permit, the applicant shall be required to file with the Village a performance bond, insurance policy, cash deposit, or letter of credit in a amount established by the Village Council by resolution, which shall be utilized to ensure performance of improvements as approved and to pay claims for damages resulting from activity within the public right-of-way. Moreover, the applicant shall execute an agreement to defend and indemnify the Village and to hold the Village harmless in the event a claim arises out of an activity conducted by the applicant within the right-of-way.

Inspection of Work; Suspension or Revocation of Permit

All work done pursuant to any permit issued pursuant to this Chapter shall be inspected by the Village under the direction of the DPW Superintendent to determine that the work conforms with the applicable Village Ordinances. The Superintendent may suspend or revoke any permit where the workmanship or materials used do not conform to the approved plans and specifications and the applicable provisions of this Ordinance or other applicable Ordinances. Violation of the terms and conditions contained in this Chapter or any other applicable Ordinance or provision may result in the permit being revoked. It shall be unlawful to perform any work authorized by any permit or cause any work to be performed after permit has been suspended or revoked.

Review Procedure

- A. If a permit is refused, suspended or revoked, the applicant may within ten (10) days of the denial, suspension or revocation, appeal that determination in writing to the Village Council. The Village Council shall, after providing notice, conduct a hearing concerning the refusal, suspension or revocation. After conducting the public hearing, the Village Council shall either affirm, modify or reverse the decision of the DPW Superintendent. The decision of the Village Council shall be final.
- B. All operations for which a permit is granted pursuant to the terms of this Chapter shall be under the direction and supervision of the DPW Superintendent. The DPW Superintendent or his designate shall have the authority to promulgate rules and regulations in order to implement the terms and provisions of this Ordinance.

Conflict Between Laws

Should any article, section, subsection, paragraph sentence or phrase of this ordinance be declared by a court of competent jurisdiction to be invalid such decision shall not effect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Penalties for Violation

Any person, firm, corporation or other entity who violates any term or provisions of this ordinance is responsible for a municipal civil infraction and shall be subject to a civil fine of \$50.00 for the first violation, \$150.00 for a second violation and \$300.00 for a third or subsequent violation, and shall be liable for the payment of costs in an amount of not less than \$9.00 and not more than \$500.00.

Provisions of this ordinance need not be complied with to the extent a person has obtained a lawful franchise from the village.

Effective Date

This Ordinance shall be in full force and effect within twenty days from its passage and publication according to law.

Ayes: Wheeler, White, Wolff, Kenyon, Pash, Dunham, Mapes.

Nays: None.

Passed - September 9, 1999

Effective - October 4, 1999

Dennis Mapes
Village President

Cathy Lentz
Village Clerk