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**TITLE IV - STREETS AND SIDEWALKS****CHAPTER 41. STREETS**

4.1. Definitions. Unless the context specifically indicates otherwise, the meanings of terms used in this Chapter shall be as follows:

- (1) "Street" shall mean 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 the same are not yet constructed.
- (2) "Department" shall be deemed to refer to the Department of Public Works of the City.
- (3) "Superintendent" shall mean the City Superintendent of Public Works.

4.2. Damage and Obstruction Prohibited. 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 the following:

- (1) Such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises.
- (2) The lawful parking of vehicles within the part of the street reserved for vehicular traffic.
- (3) The parking of any disabled vehicles, outside the traveled portion of any street for a period of not to exceed forty-eight (48) hours, or
- (4) The planting of trees and shrubs in a manner which does not interfere with public use.

4.3. Permits and Bonds. Where permits are authorized in this Chapter, they shall be obtained upon application to the Superintendent upon such forms as he shall prescribe. Such permit shall be revocable by the Superintendent for failure to comply with this Chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the Superintendent 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, the insurance certificate must show proof that the contractor has Liability Insurance with completed operations and products, issued to the City, with a minimum of \$500,000 per occurrence and \$1,000,000 aggregate limit to cover the required work within City Street rights-of-way. In addition, a \$1,000,000 umbrella liability certificate is also required.

The Certificate must also show a ten (10) day cancellation clause and a description of work to be done in the City rights-of-way.

A duplicate executed copy or photostatic copy of the original of such insurance policy, approved as to form by the City Attorney, shall be filed with the City Clerk. Where cash deposits are required with the application for any permit hereunder, such deposit shall be in the amount of one hundred (\$100) dollars, except as otherwise specified in this Chapter, and such deposit shall be used to defray all expenses to the City arising out of the granting of the permit and work done under the permit or in connection therewith. None of this cash deposit shall be refundable. In any case where the deposit does not cover all costs and expenses of the City, the deficit shall be paid by the applicant.

4.4. Street Openings. No person shall make any excavation or opening in or under any street without first obtaining a written permit from the Superintendent.

(a) No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 4.3.

(b) As a condition of the permit, the contractor shall guarantee his work for a period of two (2) years. If settlement occurs at the site of excavation or adjacent thereto at any time within two (2) years from the date of the final completion of the original restoration, the contractor shall be responsible for repairing such settled area in accordance with the directions of the Superintendent. In addition, the contractor shall be responsible to reimburse the City for any expense incurred in placement of warning devices and barricades for the protection of traffic caused by such settlement, or any emergency repairs required to be performed by the City.

(c) Repairs to such settled area shall be made within fifteen (15) days of written notice to contractor or property owner, and if not made, the City shall proceed with such repairs, with the cost thereof becoming a lien on the property for whose benefit the original excavation is made.

(Ordinance No. 1995-7; 10-03-1995)

4.5. Emergency Openings. The Superintendent 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.

4.6. Backfilling. All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this Chapter. Any settlement shall be corrected within eight (8) hours after notification to do so.

4.7. Sidewalk Vaults. Openings through the sidewalks for the delivery of fuel when lawfully in existence, shall not be greater than thirty (30) inches in diameter, shall be circular in form, and shall be effectually closed when not in actual use by an iron cover set flush within the surface of the sidewalk, level with the sidewalk and securely locked in place. All openings in the sidewalk for the admission of light and air shall be closed and protected either by substantial iron gratings or illuminating pavement of a design and so placed as to be satisfactory to the Superintendent.

4.8. Utility Poles. Utility poles may be placed in such streets as the Superintendent shall prescribe and shall be located thereon in accordance with the directions of the Superintendent. Such poles shall be removed or relocated as the Superintendent shall from time to time direct.

4.9. Maintenance of Installations in Street. 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, 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

same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during this 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.

### **CURB CUTS**

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

- (1) No single curb cut shall be less than ten (10) feet.
- (2) The minimum distance between any curb cut and a public crosswalk shall be five (5) feet.
- (3) The minimum distance between curb cuts, except those serving residential property, shall be twenty-five (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 forty-five (45%) percent of the total abutting street frontage up to and including two hundred (200) lineal feet of street frontage plus twenty (20%) percent of the lineal feet of street frontage in excess of two hundred (200) feet.
- (5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, 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 Superintendent.

4.19. Driveway Aprons; Construction.

- (1) Any person constructing a driveway shall cause the area between the curb cut and the nearer sidewalk line to be paved with concrete or asphalt in accordance with regulations therefor established by the Superintendent.
- (2) Notice of Failure to Comply. In the event such area is not paved as herein provided, the Superintendent shall cause a thirty (30) day written notice to be sent to the abutting property owner of the City's intent to cause such area paved, and which notice shall include an estimate of the cost thereof.
- (3) Failure to Comply. If such area is not paved as herein provided at the expiration of said thirty (30) day notice, the Superintendent shall cause the same to be done.
- (4) Assessment of Cost. The cost of such paving shall be assessed against the abutting property and may be paid over a three- (3) year period. The property owner shall be notified by mail stating the amount of assessment. Failure to receive notice shall not invalidate any assessment nor excuse the payment of interest or collection fees or both. Each property owner shall have ninety (90) days from the date of the billing to pay said assessment in full or any part thereof. Following the said ninety (90) days the property owner shall pay all of this assessment at anytime, but shall be required to pay interest thereon as established by the City Council in the year in which the construction occurs. If an assessment or the first installment thereof, remains unpaid as of the last day of February following the date of billing, there shall be added interest at the rate set by the City Council beginning ninety (90) days from the date of billing to the first day of July following the said last day of February and said assessment shall be spread upon the then current tax roll for the collection of taxes in the City and collected in the

same manner and subject to the same fees and penalties as taxes. The remaining installments shall be spread upon the succeeding City tax rolls, together with interest beginning ninety (90) days from date of billing until all installments are paid.

### **SIDEWALK OBSTRUCTIONS**

4.26. Sidewalk Obstructions. No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to said street, or for any other purpose, without first obtaining a permit from the Superintendent and posting a cash deposit and filing an insurance policy as required by section 4.3.

4.27. Pedestrian Passage. At least five (5) 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 built in accordance with Chapter 98 of this Code, shall be provided around such obstruction.

### **SAFETY REQUIREMENTS**

4.31. Safeguards. All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with prescribed warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three (3) feet apart, and parallel to the flow of traffic not over fifteen (15) feet apart.

4.32. Shoring Excavations. All openings and excavations shall, where necessary, 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.

### **HOUSE MOVING**

4.34. Moving of Buildings, Etc. No person shall move, transport, or convey any building, machinery, truck or trailer, more than eight feet eight inches (8' 8") wide or higher than thirteen feet six inches (13' 6"), above the surface of the roadway, into, across or along any street, or other public place in the City, without first obtaining a permit from the Superintendent. The applicant shall file written clearances from the electric, telephone, gas and water utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the Police Department, approving the proposed route through the City streets and the time of moving, together with an estimated cost to the Police Department due to the moving operations. The applicant shall deposit with the City the total estimated cost to the Police Department and Department of Public Works, plus a cash deposit as required by section 4.3 and shall file with the City a liability insurance policy in the amount of one hundred thousand (\$100,000) dollars for injury to one (1) person and three hundred thousand (\$300,000) dollars for injury to more than one (1) person and property damage insurance in the amount of fifty thousand (\$50,000) dollars.

### **ADDITIONAL REGULATIONS**

4.36. Additional Regulations. The City Manager may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions, and house moving, which regulations shall be subject to the approval of the City Council. No person shall fail to comply with any such regulations.

4.37. Removal of 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 land owner 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 Chapter 3 of this Code.

4.38. Temporary Street Closings. The Superintendent 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 said street, indicating that the same 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 said street except as the same 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 pursuant to this section without authority from the Superintendent.

4.39. All Night Parking Restrictions. Between November 1<sup>st</sup> and April 30<sup>th</sup>, no person shall park any vehicle on any street between the hours of 2:00 A.M. and 6:00 A.M. on any day.

(Ordinance No. 2002-03, 07-09-2002; Ordinance No. 2003-01, 04-01-2003)

### **VIOLATIONS**

4.40 Violation; Municipal Civil Infractions. A person who violates any provision of this Chapter, with the exception of Section 4.39, is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$250.00 nor more than \$500.00, plus costs and other sanctions, for each violation. A person who violates Section 4.39 of this Chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$10.00 nor more than \$20.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by Section 1.12(3)(b) of this Code. The Superintendent or his/her designee is hereby designated as the authorized City official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the City of Frankenmuth Municipal Ordinance Violations Bureau) for violations under this Chapter as provided by this Code.

(Ordinance No. 2002-05, 08-07-2002; Ordinance No. 2002-03, 07-09-2002; Ordinance No. 2003-01, 04-01-2003; Ordinance No. 2004-01, 02-03-2004)