

Chapter 14

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

* **State Law References:** Streets and sidewalks, MCL 67.7 et seq.; paving and improvements, MCL 67.17 et seq.; street regulations, MCL 67.20 et seq.

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ARTICLE I.

IN GENERAL

Secs. 14-1--14-19. Reserved.

ARTICLE II.

USE OF PUBLIC STREETS, SIDEWALKS AND RIGHTS-OF-WAY

Sec. 14-20. Declaration of purpose.

The purpose of this article 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 public streets and rights-of-way.

(Comp. Ords. 1999, § 62.002; Ord. of 3-13-1998, § 1)

Sec. 14-21. Definitions.

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

Alley means 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.

Approach means a hard-surfaced area connecting a street with an off-street parking area, truck well, maneuvering lane or driveway.

Curb means 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 portions of the roadway established for vehicular traffic from the adjacent greenbelt area designed to keep vehicular traffic from the greenbelt area.

Right-of way means 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.

Sidewalk means a slab of concrete generally parallel with the street and usually located one foot from the property line in the public right-of-way.

Street means that portion of a public thoroughfare improved, designed or ordinarily used for vehicular traffic, including curbs on paved roads and shoulders on unimproved thoroughfares.

Utility company means any public or private person or corporation holding or exercising a franchise in the village for the distribution of natural gas, water, electricity, telephone, cable television or other such services within the village.

(Comp. Ords. 1999, § 62.003; Ord. of 3-13-1998, § 3)

Sec. 14-22. 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 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 or place any vending machine, express mail machine, private mail box, pick-up box or railing within the public right-of-way, or erect, construct, place or maintain any bumps, fences, gates, chains, bars or pipes 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 inches, boulders, and shrubs, mail boxes that do not conform with applicable federal standards, landscape forms or sculptures exceeding six 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 without first obtaining a permit from the village.

(e) It shall be unlawful to install any utility poles, towers, water mains, sewer, pipes, sidewalks or any other such structure with the public right-of-way without first securing a permit from the village. (Comp. Ords. 1999, § 62.004; Ord. of 3-13-1998, § 4.01)

Sec. 14-23. 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 article.

(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 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 article. The office manager 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 article is obtained on the next following business day.

(d) It shall be unlawful to install, replace or alter a driveway approach, sidewalk and culvert, enclose a ditch or make a sewer or water tap without first securing a permit in accordance with the provisions of this article.

(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 article.

(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 ensure 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.

(h) The president, street administrator or his/her designee shall have authority to temporarily close any street, sidewalk or any portion of the public 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 portions 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.

(Comp. Ords. 1999, § 62.005; Ord. of 3-13-1998, § 5.01; Ord. of 10-9-2000)

Sec. 14-24. 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 article or any other applicable ordinance.

(b) All sidewalks shall conform with the applicable provisions.

(c) 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 village, or perform or have performed on its behalf the construction, reconstruction or repair of such sidewalks.

(d) The village council shall determine whether the sidewalks to be constructed, reconstructed or repaired shall be paid for by invoice to the abutting property owners or by special assessment to the abutting property owners.

(e) The village council may, by resolution, require the owners of lots and premises to construct, reconstruct or repair sidewalks adjacent or abutting upon such lots and premises. When any such resolution is adopted, it shall be the duty of the village engineer to cause a notice of same to be sent by first class mail to all owners of lots affected, as determined from the tax rolls of the village, to the owners of the lots and premises in front of or adjacent to which said sidewalk is to be constructed, reconstructed or repaired, requiring the owners to construct, reconstruct or repair in accordance with village specifications, such sidewalk as is required by such resolution, within 30 days of the date of the notice, unless a different time is specified in the resolution of the village council. A notice shall also state that if any owner shall fail to comply with such order within the specified time, then the village shall construct, reconstruct or repair such sidewalk and charge the expense thereof to the premises and the owner thereof together with an administrative charge not to exceed 16 percent to cover administrative, bidding, engineering and collection expenses.

(f) The owner of the property abutting the sidewalk to be constructed, reconstructed or repaired shall have 15 days from the date of notice to appeal the determination that the sidewalk should be constructed, reconstructed or repaired. If the ordinance board of appeals, upon appeal, determines that the construction, reconstruction or repair is unnecessary or not within the interest of public safety of the village, the sidewalk need not be constructed, reconstructed or repaired at that time.

(g) If the owner of any lot or premises fails to construct, reconstruct or repair in accordance with the village specifications any particular sidewalk described in said notice and within the time period and in the

manner required thereby, the village engineer is hereby authorized and required immediately after the expiration of the time period provided for said construction, reconstruction or repair by said owner, to cause such sidewalk to be constructed, reconstructed or repaired with the expense thereof to be charged to such premises and the owner thereof, together with the administrative charge herein before provided. The charge shall constitute a lien against the property abutting the sidewalk and shall be collected as a special assessment.

(h) The village council may provide that the payment for the sidewalks to be constructed or reconstructed or repaired shall be by special assessment. If the village council decides to pay for such sidewalks by special assessments, the procedures set forth in this article shall be followed.

(i) 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. Whenever the village engineer determines that a sidewalk is unsafe, he shall cause written notice thereof to be given by first class mail to the owner of abutting property as determined from the tax rolls. If any owner shall neglect to keep and maintain in good repair the sidewalk adjacent and abutting upon his property, then said owner shall be liable to the village for any damages recovered against the village sustained by any person by reason of said sidewalk being unsafe and in a state of disrepair.

(Comp. Ords. 1999, § 62.006; Ord. of 3-13-1998, § 6)

Sec. 14-25. Application procedure.

(a) Application for a permit under the terms and conditions of this section and any other applicable provision of this Code 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 this Code, ordinances and regulations of the village 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.

(Comp. Ords. 1999, § 62.007; Ord. of 3-13-1998, § 7)

Sec. 14-26. Bond and hold harmless requirement.

As a condition of obtaining a permit, the applicant shall be required to file with the village a bond or insurance policy in an amount established by village council by resolution, which shall be utilized to pay all valid 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.

(Comp. Ords. 1999, § 62.008; Ord. of 3-13-1998, § 8)

Sec. 14-27. Inspection of work; suspension or revocation of permit.

All work done pursuant to any permit issued pursuant to this article shall be inspected by the village under the direction of the president, street administrator or his/her designee to determine that the work conforms with the applicable provisions of this Code and ordinances of the village. The president or street administrator

may suspend or revoke any permit where the workmanship or materials used do not conform to the approved plans and specifications and applicable provisions of this Code or other applicable ordinances. Violation of the terms and conditions contained in this article or any other ordinance or provision of this Code may result in the permit being revoked. It shall be unlawful to perform work authorized by any permit or cause any work to be performed after a permit has been suspended or revoked.
(Comp. Ords. 1999, § 62.009; Ord. of 3-13-1998, § 9; Ord. of 10-9-2000)

Sec. 14-28. Review procedure.

(a) If a permit is refused, suspended or revoked, the applicant may within ten days of the denial, suspension or revocation, appeal that determination to the village council. The village council shall after proper notice to all interested parties conduct a hearing concerning the refusal, suspension or revocation. After conducting the hearing, the village council shall either affirm, modify or reverse the decision of the president, street administrator or his/her designee. The decision of the village council shall be final.

(b) All operations for which a permit is granted pursuant to the terms of this article shall be under the direction and supervision of the president, street administrator or his/her designee and they shall have the authority to promulgate rules and regulations in order to implement the terms and provisions of this article.
(Comp. Ords. 1999, § 62.010; Ord. of 3-13-1998, § 10; Ord. of 10-9-2000)

Sec. 14-29. Removal of snow, ice, filth, obstructions or nuisances from the sidewalks.

1: Removal of Sidewalk Obstruction:

No person occupying said premises, and no person owning any unoccupied premises shall fail to keep sidewalks clear of obstructions, snow, ice, filth or any nuisance on the property occupied by or owned by him.

2: Duty of Occupant or owner:

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the Village, to remove all obstructions, snow, ice, filth or any nuisance by lawful means within 24 hours of the event causing the obstruction, snow, ice, filth or other nuisance. In case of a prolonged snow or ice event, the owner/occupier is required to remove the snow/ice within 72 hours. In the case of just ice, the ice shall be removed when the temperature will permit salt or other ice melting substance to work.

3: When the Village does the work:

If provisions of Section 1 and 2 are not complied with the Village President or the duly authorized representatives shall notify the occupant, or owner of the unoccupied premises, to comply with the provisions of said sections within a time to be specified in said notice which notice shall be given as follows: either a) by mailing said notice by mail to such owner or occupant at his last known address; or b) if the owner is unknown and the premises are unoccupied the posting of said notice in some conspicuous place on the premises for five days.

If said notice is not complied with, within the specified time, the Village may cause such obstruction, snow, ice, filth or other nuisance to be removed or destroyed and the actual cost of the removal plus 10% for inspection and other cost in connection therewith, shall be levied upon the property as a special assessment and collected as other special assessments are levied in the Village.

4: Severability:

The provisions of this ordinance are hereby declared to be severable and should any provisions, section or part thereof be declared invalid or unconstitutional by any court of competent jurisdiction, such

decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of such ordinance which shall continue in full force and effect.

5: Effective Date:

This ordinance shall become effective within 20 days from the date of adoption or the date of publication, whichever occurs first. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(approved 4-21-2014, eff 5-6-2014)

Sec. 14-30 Prohibition on Sale and Consumption of Marihuana in Public Places

- (a) In conformance with Sections 4.1(e) and 6.2(b) of the Michigan Regulation and Taxation of Marihuana Act (the “Act”), the sale or consumption of marihuana in any form and the sale or display of marihuana accessories, as defined by the Act, is prohibited in any public places within the boundaries of the Village.
- (b) Any person who violates any of the provisions of this section shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs.
- (c) This section does not supersede rights and obligations with respect to the transfer and consumption of marihuana on private property to the extent authorized by the person who owns, occupies or operates such property, as provided in and authorized by the Act, and does not supersede rights and obligations with respect to the use of marihuana for medical purposes as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use.

Conflict and Repeal. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

Severability and Repeal. If any portion of this Ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect.

(approved 12-17-2018, eff 12-28-2018)

Secs. 14-31--14-59. Reserved.

ARTICLE III.

MAILBOXES AND NEWSPAPER DELIVERY BOXES IN RIGHT-OF-WAY

Sec. 14-60. Location; exceptions.

(a) Mailboxes and newspaper delivery boxes, hereinafter referred to in this article as a mailbox, shall be located on the right-hand side of the roadway in the direction of the delivery route except on one-way streets where they may be placed on the left-hand side. The bottom of the box shall be set at an elevation between 42 and 48 inches above the roadway surface. The roadside face of the mailbox shall be set back eight to 12 inches from the outside edge of the road shoulder. The local postmaster may be contacted to obtain exact locations and heights.

(b) Exceptions to the placement criteria may be granted by the village for residential streets if it is in the public interest to alter the location. On curbed streets, the roadside face of the mailbox shall be set back from the face of the curb a distance between six and 12 inches. On residential streets without curbs or on all-weather shoulders which carry low-traffic volumes and which operate at low speeds, the roadside face of a mailbox shall be offset between eight and 12 inches behind the edge of the pavement.

(c) Where a mailbox is located at an intersecting road, it shall be located no closer than 100 feet from the intersection.
(Ord. No. 850, § 1, 10-18-2004)

Sec. 14-61. Structure.

(a) Mailboxes shall conform to requirements of the United States Postal Service including, without limitation, Section DO41 et seq., of the Domestic Mail Manual. Newspaper delivery boxes shall be of light steel, metal or plastic construction of minimum dimensions suitable for holding a newspaper.

(b) No more than two mailboxes may be mounted on a support structure unless the support structure and mailbox arrangement meet American Association of State Highway Transportation Officials standards. However, lightweight newspaper boxes may be mounted below the mailbox on the side of the mailbox support.

(c) Mailbox supports shall not be set in concrete without authorization from the village.

(d) A single four inches by four inches or 4 1/2-inch diameter wooden post or a metal post with strength no greater than a two-inch diameter standard-strength steel pipe and embedded no more than 24 inches into the ground will be acceptable as a mailbox support. A metal post shall not be fitted with an anchor plate, but it may have an anti-twist device that extends no more than ten inches below the ground surface.

(e) The post-to-box attachments should be of sufficient strength to prevent the box from separating from the post if the installation is struck by a vehicle.

(f) The minimum spacing between the centers of support posts shall be three-fourths the height of the posts above the ground line.
(Ord. No. 850, § 2, 10-18-2004)

Sec. 14-62. Removal of nonconforming or unsafe mailboxes.

Any mailbox that is found to violate the provisions of this article shall be removed by the owner upon notification from the village. At the discretion of the village and based on an assessment of hazard to the public, the owner will be granted not less than 24 hours or more than 30 days to remove an unacceptable installation. If not removed within the specified time, the installation will be removed by the village at the owner's expense as provided by Act 368 of the Public Acts of 1925 (MCL 247.171 et seq.), as amended. If the ground is frozen and the nonconforming mailbox is not a safety hazard and cannot be removed, the owner must conform as soon as the weather conditions permit. If the nonconforming mailbox is a safety hazard, it shall be removed by any means, and the owner may replace the nonconforming mailbox with a temporary installation as close to conforming as possible until weather conditions permit.
(Ord. No. 850, § 3, 10-18-2004)

Sec. 14-63. Mailboxes damaged by the village.

(a) It is the policy of the village to replace all mailboxes and/or supports damaged or destroyed by a village vehicle, backhoe, snowplow, etc., even though, by law the village has no legal responsibility to do so. The village will not replace mailboxes that have been damaged as a result of the accumulation of snow after repeated plowing. The replacement mailbox shall be the standard aluminum box which is approximately 19 inches long by 6 1/2 inches wide and nine inches high. When the existing box is an oversized box, the box shall be a standard aluminum box which is approximately 21 inches long by eight inches wide and nine inches high, or 23 inches long by 11 inches wide by 14 inches high, whichever most closely approximates the size of the box being replaced. The replacement will be in accordance with this article. Individuals who maintain boxes of another standard do so at their own risk. The village is not responsible for the installation of the replacement mailbox or post.

(b) In the event the owner of the damaged mailbox declines the standard mailbox and/or support offered as a replacement, the owner may receive a cash settlement in full settlement of any claim regarding mailbox replacement. The cash settlement, if requested, shall be the cost of a standard aluminum mailbox.
(Ord. No. 850, § 4, 10-18-2004)

Sec. 14-64. Encroachment or obstruction.

(a) It is the policy of the village to prohibit and, when necessary, to remove any encroachment and/or obstruction in the village road right-of-way. It is recognized that encroachments and/or obstructions along the roadways severely impact the convenience and safety of the motoring public. The removal of such encroachment and/or obstruction promotes safety for the motoring public, improves the aesthetics of the roadway, and lawfully eliminates interference within the public road right-of-way. When removal is necessary, it shall be at the owner's expense.

(b) It shall be the policy of the village that this encroachment and/or obstruction policy be uniformly and fairly administered. The village also recognizes that these encroachments or obstructions constitute hazards to the motoring public ranging from slight to severe and that the time available to identify, assess, recommend action and follow up on the accommodations and/or obstructions is limited. The village shall be charged with the responsibility of implementing this policy in accordance with Public Act No. 368 of 1925 (MCL 247.171 et seq.).

(Ord. No. 850, § 5, 10-18-2004)

Sec. 14-65. Maintenance of Public Right-of-Way.

- (a) The owner of private property adjoining a public right-of-way shall maintain that portion of the right-of-way located between the private property line and the edge of the paved street in a safe and sanitary condition. Said owner shall not permit grass or weeds to grow within the right-of-way to a height in excess of eight (8) inches above the ground. Nothing herein shall be deemed to require an owner of private property adjoining a right-of-way to repair sidewalks or curbs located within the right-of-way.
- (b) The owner of private property adjoining a public right-of-way shall not place any structure, wall, fence, tree, hedge, shrubbery or any other plant growth except low growing plantings, within the right-of-way without permission from the Village. Any such tree, hedge, shrubbery, or other plant growth located within the right-of-way may be maintained, but not replaced, provided that it does not interfere in any manner with pedestrian or vehicular traffic, and is maintained in such a manner and at such height that a clear and unobstructed view is available to pedestrians and vehicular traffic.
- (c) Any non-public structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located within the public right-of-way in violation of any provision of this section 14-65 shall be removed by and at the expense of the owner and occupant of the abutting private property upon the request of the Village. The Village may take such action as is necessary to return the right-of-way to a condition required by this section. The cost of any corrective action may be specifically addressed against the abutting private property and collected with the property taxes or collected by a suit for damages.
- (d) Any person who violates any provision of this Section or allows a violation of this Section shall be guilty of a municipal infraction and shall be jointly and severally subject to a penalty of One Hundred Dollars (\$100.00) for each day that the violation exists.

Sec. 14-66 Man-Made Obstruction Prohibited in Public Road Right-of-Way.

No person shall place or cause to be placed a man-made obstruction within any public road right-of-way in the Village without a permit or approval from the Village. This Prohibition includes, but is not limited to the following:

- (a) Rocks, boulders or other man-made obstructions shall not exceed twelve (12) inches in total height, and shall not be located closer than three feet from the edge of the road pavement.
- (b) Placement of fill or creation of a berm or wall.
- (c) Excavation or alteration of ditches, grade, contour, embankment or road drainage.
- (d) Any person guilty of violating this section may be subject to a penalty not to exceed Two Hundred Fifty Dollars (\$250.00) for each day that a violation exists.

(approved 9-16-2013, eff 1-1-2014)