

## Chapter 34

### **STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\***

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\***Charter reference**—General powers of city in respect to streets and sidewalks, § 2.1(c).

**State law references**—City control of highways, Mich. Const. 1963, art. VII, § 29; city authority to acquire, own, establish and maintain boulevards, Mich. Const. 1963, art. VII, § 23; obstructions and encroachments on public highways, MCL 247.171 et seq.; closing of highway for repairs, MCL 247.291 et seq.; driveways, banners, events and parades, MCL 247.321 et seq.; liability of local government for injury from the result of not keeping highway in reasonable repair, MCL 691.1402.

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- Sec. 34-113. Excavations; bond required.
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**ARTICLE I. IN GENERAL****Sec. 34-1. East Grand River Avenue Access Management Plan.**

Sections listed below are compiled that the East Grand River Access Management Plan is hereby adopted by reference in its entirety, and is comprised of the following sections:

- (1) Introduction.
- (2) Existing conditions.
- (3) Basic design standards.
  - a. Driveway location.
  - b. Buffer area and sight distance.
  - c. Access point dimensions and details.
- (4) Existing access.
- (5) Coordination.

(Code 1972, § 14.160; Ord. No. 189, eff. 12-2-1999)

**Sec. 34-2. 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 city.

(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 \$500.00, 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.

(Ord. No. 198, eff. 12-27-2018)

**Secs. 34-3—34-20. Reserved.**

**ARTICLE II. SIDEWALKS****DIVISION 1. GENERALLY****Sec. 34-21. Words defined.**

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:

*Contractor* means the party or parties performing work.

*Owner* means the party or parties holding title to the private property abutting upon the public property.

*Sidewalk* means any concrete walkway constructed in that portion of the street right-of-way designed particularly for pedestrian travel. The term shall not include any portion of any driveway between the street and the proposed or existing sidewalk.

(Code 1972, § 30.221; Ord. No. 109, § 1, eff. 4-8-1975)

**Sec. 34-22. Service by publication.**

In the event the owner of any lot or premises subject to the provisions of this article is unknown or in the event that the city clerk or other persons, designated by the clerk to make service, is unable to make service of notice as heretofore provided on such owner, the city clerk shall cause a copy of said notice to be published once in a newspaper circulated in the city and file proof of such publication in the office of the city clerk before the expiration of the times stated in such notice. Said publication shall constitute notice to the landowner.

(Code 1972, § 30.251; Ord. No. 109, § 1, eff. 4-8-1975)

**Secs. 34-23—34-47. Reserved.**

DIVISION 2. SNOW REMOVAL

**Sec. 34-48. Failure of owner to remove.**

It shall be unlawful for the owner of any property abutting any sidewalk of the city to fail to remove any accumulations of snow or ice within ten hours after the cessation of the cause of the accumulation of snow or ice.  
(Code 1972, § 30.211)

**Sec. 34-49. Removal by city; assessing costs.**

Should snow, or ice accumulations be permitted to remain upon any sidewalk for a period of ten daylight hours after the cessation of the cause of accumulation, the city manager may, without notice to the property owner, cause the same to be removed and the actual cost of the removal assessed against the property as provided in section 34-50.  
(Code 1972, § 30.212)

**Sec. 34-50. Assessment procedure when removed by city.**

When snow, ice or accumulations have been removed from any sidewalk, under the provisions of this division, the procedure to secure payment of the cost of removal of snow, ice, or accumulations to the city shall be as follows:

- (1) The city manager shall submit to the city council an itemized and verified statement showing expenditures of material, labor and equipment used in making the removal, the name of the owner or owners of the property, and the description of the lot, part of lot, or parcel of ground in front of and abutting upon the sidewalk from which snow, ice or accumulations have been removed; and
- (2) The council shall examine the verified statement and if found correct shall direct that the expense of removal be assessed against the property as a single lot assessment in accordance with section 32-18.

(Code 1972, § 30.213)

**Secs. 34-51—34-73. Reserved.**

DIVISION 3. CONSTRUCTION;  
MAINTENANCE AND REPAIR

**Sec. 34-74. Unsafe sidewalks.**

No person shall permit any sidewalk that adjoins property owned by such person to fall into a state of disrepair or to be unsafe.  
(Code 1972, § 30.231; Ord. No. 109, § 1, eff. 4-8-1975)

**Sec. 34-75. Supervision and control.**

(a) The city manager shall have general supervision and control of all sidewalks and the construction, maintenance, repairs and specifications thereof including inspection, and it shall be the duty of the city manager to see that the provisions of this division are enforced.

(b) The city manager may act himself or he may authorize a subordinate to act in his behalf on any matters pertaining to him and this division.  
(Code 1972, § 30.232; Ord. No. 109, § 2, eff. 4-8-1975)

**Sec. 34-76. Initiation by owner.**

Whenever any person or persons whose property abuts or joins a sidewalk deems it in need of repair or rebuilding, or whenever such person or persons desire the construction of a sidewalk in front of or adjoining his property which joins a public street or alley, a petition may be presented to the city council in person or in writing expressing the desires of the petitioner to have a sidewalk constructed, repaired, or rebuilt.  
(Code 1972, § 30.233; Ord. No. 109, § 3, eff. 4-8-1975)

**Sec. 34-77. Initiation by the city.**

(a) Whenever the city council shall by resolution declare the necessity for and direct the building of a new sidewalk on property adjoining or abutting any street or alley, the council shall direct the city clerk to forthwith cause to be served upon the owner or agent of the owner of such adjoining or abutting lands, a notice of such resolution, together with other information, in

the form hereinafter provided for, by first class mail, addressed to the last known address of the owner or if there is no known address, by leaving said notice with a person of suitable age and discretion and/or by posting a copy of such notice in a conspicuous place on the lot adjoining said repair.

(b) Whenever the city manager shall determine that a sidewalk is unsafe for use, or is required to be repaired for the public safety, the manager shall direct the city clerk to forthwith cause to be served upon the owner or agent of the owner of such adjoining or abutting lands, a notice of such determination, together with other information in the form hereinafter provided for, by first class mail addressed to the last known address of the owner or if there is no known address, by leaving said notice with a person of suitable age and discretion and/or by posting a copy of such notice in a conspicuous place on the lot adjoining said repair.

(Code 1972, § 30.234; Ord. No. 109, § 4, eff. 4-8-1975)

**Sec. 34-78. Time to comply with notice; necessity; cost of permit.**

(a) Whenever the council shall so resolve or city manager so determine, the said property owner shall have the opportunity to complete the



work so ordered by council resolution or city manager determination within 30 days after service of notice of passage of resolution or determination; provided, however, the said owner does first obtain, from the office of the city manager, a permit to do such work, such permit shall be issued upon the condition that such work shall be performed in accord with the specifications and conditions to be attached thereto. Such specifications and conditions shall govern the construction and may be changed from time to time as deemed necessary by the city manager. Said specifications and conditions shall be attached to each permit and shall be on file in the city manager's office or office of the city clerk; provided, further, that should the property owner desire the city to complete the work required in the notice, said owner can waive the 30 day requirement by filing with the city clerk a written waiver signed by the owner.

(b) No sidewalk shall be constructed, rebuilt or repaired in the city without the person doing such work, or the property owner, first obtaining a permit from the city manager, conditioned upon the applicant complying with the sidewalk specifications and conditions attached to said permit and on file in the city manager's office.

(c) The cost of such permit shall be set and changed from time to time by council resolution; provided, however, in the event that the permit provides for work less than 100 square feet and that the walk proposed to be constructed will be placed on existing grade, no permit fee shall be charged to the applicant.

(Code 1972, § 30.235; Ord. No. 109, § 5, eff. 4-8-1975)

**Sec. 34-79. Notice; work ordered; estimated cost.**

Whenever the council shall resolve as provided for in section 34-77(a) hereof or whenever the manager shall determine as provided for in section 34-77(b) hereof, the manager shall prepare an estimate of the cost of such sidewalk work. In the event that the property owner fails to comply with the council resolution or manager determination, after notice of such is duly served upon him or desires that the city perform the work so

ordered, the manager is hereby ordered to and shall complete such work at the expense of the property owner. The notice to the property owner hereinafter provided for shall include the total measurement of the work to be performed and the estimated cost.

(Code 1972, § 30.236; Ord. No. 109, § 6, eff. 4-8-1975)

**Sec. 34-80. Notice; collection of cost.**

Whenever the council shall resolve the necessity of constructing said sidewalks or whenever the manager shall determine the necessity for rebuilding or repairing sidewalks and such work is completed by the city after the property owner fails to comply with the order contained in the notice, hereinafter provided for, the owner of the property involved shall receive notice in the same manner as provided for in the initial notice that construction or repair was needed, that the work has been completed, notice of the cost of work completed, and notice that he must pay said cost within 90 days of the sending of the notice. If no payment is received within the said time, the cost of construction or repair plus a charge or collection of one percent for each month or fraction of a month overdue will be assessed against the property.

(Code 1972, § 30.237; Ord. No. 109, § 7, eff. 4-8-1975)

**Sec. 34-81. Nonpayment; assessment.**

In case of nonpayment by the owner, occupant or party in interest of the costs and expenses as provided, the same shall be collected as a singular lot assessment in the manner prescribed in section 32-18. Any such assessment shall be a lien upon the lot or premises upon which it was assessed and shall be collected according to law in the same manner as other city taxes; or the city may collect such amount, together with the penalty aforesaid in section 34-80, from an owner or occupant or party in interest of such premises in an action of assumpsit together with the costs of suit.

(Code 1972, § 30.238; Ord. No. 109, § 8, eff. 4-8-1975)

**Sec. 34-82. City participation in cost.**

The city council may provide for the city to share in a portion of the cost of constructing, rebuilding or repairing of the sidewalks; provided, that such provision shall extend equally to all like sidewalks built, rebuilt or repaired within the city for a period of one year from the date of such resolution. However, such provision shall remain by resolution only. The proportion to be paid by the city shall be established by the said resolution of the city council and change from time to time, as the council may determine, by the same method. (Code 1972, § 30.239; Ord. No. 109, § 9, eff. 4-8-1975)

**Sec. 34-83. Permit; fee and bond requirement.**

In order to ensure the quality and guarantee the maintenance of sidewalks hereinafter laid in the city, every person, firm or corporation engaged in the business of laying and constructing sidewalks in the city shall for each job first obtain from the city manager, or any other person authorized by the city manager, a permit to proceed with the proposed work, said permit to be issued upon receipt of the permit fee, and, if required, by the city manager, the execution of a good and sufficient bond to the city in the penal sum as set by the city manager, said bond to be issued by a surety company or a personal bond with two sureties owning real property in the county. Only one such bond shall be required of each party in such business. A person, firm or corporation laying or constructing his, her, or its own sidewalk shall for each job first obtain such a permit and pay said fee, but shall not be required to file said bond. Every permittee shall comply with all requirements as to grade, width, specifications and all other types and conditions contained in this division relative to laying and constructing and repairing sidewalks, and failure to do so shall be a violation of this division. However, the permit fee shall be determined by the council and may be changed from time to time by resolution of the city council. (Code 1972, § 30.240; Ord. No. 109, § 10, eff. 4-8-1975)

**Sec. 34-84. Sidewalk; line dispute.**

Should any landowner dispute the placement of his sidewalk from previously constructed sidewalks, said landowner must establish his claim by a survey by a registered surveyor. The cost of such survey shall be borne solely by the landowner. (Code 1972, § 30.241; Ord. No. 109, § 11, eff. 4-8-1975)

**Sec. 34-85. Council power to construct.**

The city council shall have the power to provide by resolution the mode of receiving proposals or entering into contracts for building and repairing sidewalks constructed or repaired under the provisions of this division, and it may, at its option require the contractor or person building the sidewalk to furnish a good and sufficient surety bond to ensure the proper construction thereof. (Code 1972, § 30.242; Ord. No. 109, § 12, eff. 4-8-1975)

**Sec. 34-86. Form of notice.**

The form of notice for constructing or repairing sidewalks shall be as follows:

**SIDEWALK NOTICE.**

To:

Take notice that by order of (city council) (city manager) of the City of Portland, you are required to (construct) (repair) a cement sidewalk on the \_\_\_\_\_ side of \_\_\_\_\_ street (avenue) in front of or adjoining such lots or parts of lots described as follows:

As are now owned by you within 30 days from the date hereof, and in default thereof, the same will be constructed by the City of Portland and the expense thereof will be assessed against the described lots or premises. Also, please take notice that you must obtain a permit from the city manager prior to making any construction or repairs.

(Code 1972, § 30.243; Ord. No. 109, § 13, eff. 4-8-1975)



**Sec. 34-87. Sidewalk maintenance.**

All sidewalks within the city shall be kept and maintained in good repair by the owner of the land, adjacent to and abutting upon the same; and if any owner shall neglect to keep and maintain the sidewalk along the front, rear or side of the land owned by him, in good repair and safe for the use of the public, the said owner shall be liable to the city for any damages recovered against the city sustained by any person by reason of said sidewalk being unsafe and out of repair.  
(Code 1972, § 30.252; Ord. No. 109, § 2, eff. 4-8-1975)

**Sec. 34-88. Emergency repair.**

If the city manager shall determine that the condition of any sidewalk is such that immediate repair is necessary to protect the public, he may immediately proceed to repair the same without notice to the owner of the land abutting thereon or adjacent thereto. The cost of such emergency repairs shall be charged against the land which said sidewalk adjoins and the owner of said land, and shall be collected as a single lot assessment as provided in section 32-18.  
(Code 1972, § 30.253; Ord. No. 109, § 3, eff. 4-8-1975)

**Sec. 34-89. Construction and maintenance for use by handicapped persons.**

A sidewalk hereafter constructed or reconstructed on public or private property for public use within the city, whether constructed by the city or a person, firm, corporation, nonprofit corporation or organization, shall be constructed in a manner that will facilitate use by physically handicapped persons. At points of intersections between pedestrian and motorized lines of travel, and other points where necessary to avoid abrupt changes in grade, a sidewalk shall slope gradually to street level so as to provide an uninterrupted line of travel. The manager shall prescribe standards of slope gradient, width, and slip-resistant qualities, which standards shall at least be equal to those provided by the department of state highways, which will assure that a sidewalk will accommodate a person in a wheelchair or other handicapped persons.  
(Code 1972, § 30.254; Ord. No. 109, § 4, eff. 4-8-1975)

**Sec. 34-90. Requirements for sidewalk construction.**

Any property owner who builds a home or any other structure on a vacant lot in any zone, or any property owner who builds or improves, any structure within a commercial or industrial zone within the city shall construct a sidewalk along the entire distance that said lot is contiguous to a public right-of-way unless specifically exempted through the appeals process.  
(Code 1972, § 30.255; Ord. No. 109A, § 1(5), eff. 9-5-1995; Ord. eff. 7-6-1998)

**Sec. 34-91. Hearings.**

(a) The mayor of the city shall appoint a hearing officer who shall conduct a hearing upon proper notice by regular mail to all interested persons when a property owner feels aggrieved and presents a written request to the building official about a decision regarding sidewalks by the building official or the city manager. The hearing officer shall hear testimony from all interested persons and shall render a decision in writing, and give copies to all interested persons including the city council. If the property owner is denied an exemption and fails to comply with the decision of the hearing officer within a reasonable time fixed by the hearing officer, unless the property owner has asked in writing for a hearing before the city council within 30 days of the mailing of the hearing officer's decision, then the city shall construct or repair the sidewalk, and the cost thereof including administrative costs if not paid in full within 30 days shall be assessed against the lot as provided in section 34-81.

(b) If properly requested, the city council shall hold a de novo hearing on the hearing officer's decision giving notice by regular mail at least ten days prior to the hearing to all interested parties. The city council shall either approve, disapprove or modify the decision of the hearing officer and its findings shall be in writing, and mailed by regular mail to all interested parties. If the property owner is denied an exemption and has not complied with the city council's decision within 30 days after it is rendered, the city may proceed as provided elsewhere in this division unless the property owner appeals the city council's decision

to the circuit court by filing a petition for an order of superintending control within 30 days from the date of the decision.

(Code 1972, § 30.256; Ord. No. 109A, § 6, eff. 9-5-1995)

**Secs. 34-92—34-110. Reserved.**

### **ARTICLE III. OBSTRUCTIONS AND ENCROACHMENTS**

#### **Sec. 34-111. Obstructions and encroachments.**

It shall be unlawful for any person to place or maintain any obstruction of any nature whatever on the sidewalks or other public ways of the city, without first obtaining permission from the city manager.

(Code 1972, § 30.011; Ord. No. 4, § 1, eff. 3-15-1972)

#### **Sec. 34-112. Excavations and restorations; permit required.**

No person shall tear up, dig into, or use any street or alley in the city for laying or changing water or gas pipes, placing or maintaining electric lights, telegraph or telephone poles or to make approaches to basements or buildings, or for any other purpose without first obtaining, from the office of the city manager, a permit to do such work, such permit shall be issued upon the condition that such work shall be performed in accord with the specifications and conditions to be attached thereto. Such specifications and conditions shall govern the manner and conditions under which the work may be done and may be changed from time to time as deemed necessary by the city manager. Said specifications and conditions shall be attached to each permit and shall be on file in the city manager's office or the office of the city clerk.

(Code 1972, § 30.012; Ord. No. 140, § 2, eff. 1-10-1982)

#### **Sec. 34-113. Excavations; bond required.**

It shall be unlawful for any person other than a city employee to make any excavation for any purpose in any street, lane, alley, park or any

public ground of the city without first having executed, and delivered to the city manager an indemnifying bond in the sum as currently established or as hereafter adopted by resolution of the city council from time to time with sufficient surety or sureties, to be approved by the city manager. The bond shall fully indemnify the city against any damage that may be sustained by any person by reason of the excavation and from the payment of any judgment or costs for damage that may be recovered against said city by reason thereof.

(Code 1972, § 30.013; Ord. No. 15, § 3, eff. 3-15-1972)

#### **Sec. 34-114. Suspending signs and awnings over sidewalks.**

It shall be unlawful for any person to suspend over any sidewalk any sign, awning or other article less than seven feet above the sidewalk.

(Code 1972, § 30.014; Ord. No. 4, § 4, eff. 3-15-1972)

#### **Sec. 34-115. Suspending wires over streets and alleys.**

It shall be unlawful for any person to maintain or install any wires across any street or alley of the city less than 18 feet above the surface of the street or alley.

(Code 1972, § 30.015; Ord. No. 17, § 5, eff. 3-15-1972)

#### **Sec. 34-116. Use of streets during construction of adjoining buildings.**

(a) No person shall use any street or other public place for the purpose of construction of an adjoining building or structure without first obtaining a permit from the city manager.

(b) No material from the construction of the building shall be allowed to remain in any such street or other public place after completion of the building and no material shall be placed so as to obstruct more than one-half of any street.

(Code 1972, § 30.016; Ord. No. 4, § 6, eff. 3-15-1972)

**Sec. 34-117. Games in streets.**

It shall be unlawful for any person to engage in any sport, play, game or amusement in any of the streets, alleys or other public ways of the city.

(Code 1972, § 30.017; Ord. No. 1, § 7, eff. 3-15-1972)

**Sec. 34-118. Driving bicycles, skateboards, or other toy vehicles on sidewalks prohibited.**

It shall be unlawful for any person to drive any bicycle, skateboard or other toy vehicle upon any sidewalk of the city where posted or marked prohibited.

(Code 1972, § 30.018; Ord. No. 4, § 8, eff. 3-15-1972)

**Sec. 34-119. Street numbers; obligation of owner.**

(a) All premises shall bear a distinctive street number on the front at or near the front entrance of said premises in accordance with and as designated upon the street plan map on file in the office of the clerk of the city.

(b) The owner or occupant of all buildings now situate or hereafter erected in the city shall cause the correct numbers to be placed thereon in accordance with said street plan map. Such numbers shall be not less than three inches high, shall be in color contrast with the immediate background on which they are mounted, shall be facing the street and adjacent to the principal entrance, and in such position as to be plainly visible from the street.

(Code 1972, § 30.019; Ord. No. 97, § 9, eff. 5-8-1973)