

CHAPTER III  
PUBLIC PLACES AND PROPERTY

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CHAPTER III  
PUBLIC PLACES AND PROPERTY

Article 1  
Construction and Repair

**3.0101           Supervision**

All construction, maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the City Engineer or Commissioner of Streets and Public Improvements. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinance.

05/05/80

**3.0102           Construction and Repair – Permits**

It shall be unlawful to construct, reconstruct, alter, grade or repair, any public street, sidewalk, driveway, curbs, gutters, retaining walls, without having first secured a permit therefor, unless said work is performed by the city contractor. Applications for such permits shall be made to the Auditor and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the ordinances of the City.

05/05/80

**3.0103           Bond**

Each applicant shall file a bond in the amount of Five Thousand Dollars (\$5,000.00) with surety to be approved by the governing body conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same.

05/05/80

**3.0104           Specifications**

All construction, maintenance and repair herein shall be made in conformity with specifications laid down or approved from time to time by the governing body.

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**3.0105           Duty of Owner to Maintain**

It shall be the duty of the owner of any property along which a sidewalk has been constructed to maintain the same in good repair and safe condition. Should any such owner fail so to maintain such sidewalks, the City Engineer or Street Commissioner shall direct him to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should he fail, within a reasonable time, to follow the directions of the City Engineer or Street Commissioner, the City Engineer or Street Commissioner shall report the facts to the governing body who shall then proceed, as provided in the laws of the State of North Dakota, to make such sidewalk is safe.

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**3.0106           Application for Permit**

An applicant for a permit hereunder shall file with the City Engineer or City Auditor an application showing:

- (1) Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
- (2) Name and address of the party doing the work.
- (3) Location of the work area.
- (4) Attached plans or sufficient sketches showing details of the proposed alterations
- (5) Estimated cost of the alterations.
- (6) Such other information as the City Engineer or Street Commissioner shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

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### **3.0107 Fees**

The following fees shall accompany an application for a permit:

- (1) Filing fee of \$5.00. When a number of items of work specified in section 3.0102 are to be undertaken simultaneously only one permit and fee shall be required. If, however, various items of work are to be undertaken at diverse times, a separate application and permit and fee shall be required for such diverse items of work.
- (2) The City Engineer shall charge a fee for all inspection and engineering services done on behalf of an applicant or permittee hereunder. The inspection and engineering fee shall be computed from a schedule of charges based on anticipated actual costs. Such schedule shall be posted for public inspection in the office of the City Engineer.

05/05/80

### **3.0108 Standards for Issuance of Permit**

The City Engineer or Street Commissioner shall issue a permit hereunder when he finds:

- (1) That the work will be done according to the standard specifications of the City for public work of like character.
- (2) That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress and egress to and from the property affected and adjacent properties.
- (3) That the health, welfare and safety of the public will not be unreasonably impaired.

05/05/80

### **3.0109 Sidewalks Built to Grade**

All sidewalks shall be constructed in accordance with the elevation and grade therefor to be furnished by the City Engineer, and shall be constructed under his direction and supervision, or if the City has no engineer, sidewalks shall be constructed under the supervision of the City Street Commissioner.

**3.0110 Materials and Manner of Construction**

The kind and quality of material of which, and the manner in which sidewalks, driveways, curb and gutter, relaying of block walks, and paving repairs shall be constructed as follows:

- (1) Aggregate shall consist of the following:
  - (a) Sand for the construction of sidewalks shall be clean, washed material, free of any deleterious and organic matter. The sand shall be a type commonly used in the mixing of Portland cement concrete.
  - (b) Gravel shall be clean, washed material, free of any deleterious and organic matter. Maximum allowable size for sidewalk mix shall be three-fourths inch. The type of aggregate to be used is that which is commonly incorporated in concrete construction.
  - (c) Cement for the mixture shall be Portland cement of the standard type as accepted by the American Society of Testing Materials for concrete mixtures.
- (2) The subgrade shall be thoroughly prepared and compacted before any sidewalk is laid or concrete is placed. Where the sidewalk will rest on fill, said fill shall be compacted in six inch layers and shall be tamped with mechanical devices, or similar devices, to a density that allows no settling. In lieu of compaction of soil, gravel may be used and it shall be thoroughly compacted and rolled to assure no further settling.
- (3) Expansion joints shall be placed in the sidewalk proper and shall be of the pre-molded type one-half inch thick. Expansion joints shall be placed at uniform intervals, but in no case shall the distance between expansion joints exceed twenty-five feet. Where the sidewalk will be laid next to an existing curb, or where it shall be poured separate from the curb, or any other concrete structure, to include driveways and existing sidewalks, expansion joints shall be placed between the existing structure and the newly poured mixture.
- (4) There shall be provided in all sidewalks at five foot intervals contraction joints which shall be struck to a depth of at least three-sixteenths of an inch and shall not exceed one-eighths of an inch in width. These shall be true and at right angles to the edges of the sidewalk. The sidewalk shall slope at the rate of one-quarter inch per foot of width from the property edge toward the street side of the sidewalks.
- (5) Strength of concrete mixture shall be three thousand pounds per square inch of concrete and the finish shall be a wood floated finish, broom finish or belted finish.

05/05/80

**3.0111 City Contractor**

The City Auditor shall receive bids for the construction of sidewalks, driveways, curb and gutter, and paving repairs as the City may find necessary to have done. Such bids shall be made upon blanks furnished by the City Engineer or Street Commissioner and shall conform to specifications filed with the City Auditor by the City Engineer or Street Commissioner and approved by the governing body.

All sidewalks, driveways, curb and gutter, and alley returns lying between the property line and the abutting street hereafter constructed within the City must conform to this chapter, and the specifications filed with the City Engineer and approved by the governing body must specify the details with respect thereto. When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks, and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this state, the contractor to whom any such contract shall be awarded shall be required, before such contract is entered into, to give, in addition to the contract bond required by the laws of the State of North Dakota, an additional bond in an amount to be determined by the governing body running to the City, conditioned that said contractor shall maintain and keep in good repair, for a period of two (2) years from date of final estimate all sidewalks, driveways, curb and gutter, and paving repairs so constructed by such contractor under the terms of such contract, and that in case of default under the part of such contractor to so maintain and keep such improvements in good repair made by him for the said period of two (2) years, or in case they shall within said time begin to crumble or disintegrate or become cracked or broken to such an extent that, in the opinion of the City Engineer or Street Commissioner, the same is not a satisfactory compliance with the specifications for the construction thereof, then the City Engineer or Street Commissioner may direct that such sidewalks, driveways, curb and gutter, or paving repairs be immediately repaired or relaid in whole or in part as he shall deem best, and the contractor shall immediately cause the same to be repaired or relaid; and in the case of the contractor's neglect, refusal or failure so to repair or to relay the same, the City, at any time within said two (2) year period, or thereafter, may cause the same to be repaired or relaid, and the cost thereof, whether done by the City directly or through a contract, may be recovered against said contractor and the surety upon such bond. Any person desiring to engage in the business of constructing paved driveways, sidewalks, curbs and retaining walls in or along the streets and alleys shall make application to the City Auditor for a license to do such work, and shall present with his application evidence of experience and competency in such work. If upon examination of such evidence the City Auditor is satisfied as to the experience and competency of the applicant, he shall approve his application, which shall be filed with the City Auditor, together with a surety bond in the sum of Five Thousand Dollars (\$5,000.00) approved by the governing body for the execution of all work in strict conformity with the provisions of this chapter and the protection, indemnification and saving harmless of the City from any or all loss, claim, suit or damages, direct or consequential, which the City may sustain through violation of any of the provisions of this chapter, by the license holder, or through negligence of the license holder, or in any other manner whatsoever. Upon the filing of the application and bond, the City Auditor shall issue a license to the applicant.

05/05/80

## Article 2

### Use and Care of Streets, Sidewalks and Public Places

#### **3.0201 Obstructions**

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the City Engineer or Commissioner of Streets and Public Improvements.

05/05/80

#### **3.0202 Encroachments**

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

05/05/80

**3.0203           Openings**

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the governing body. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the Commissioner of Streets or the City Engineer or the official who supervises public improvements.

05/05/80

**3.0204           Wires**

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permission from the governing body.

Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the Commissioner of Streets and Public Improvements, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

05/05/80

**3.0205           Deposits**

It shall be unlawful to deposit on any street or public place any material which may be harmful to the pavement or surface thereof, or which may do injury to any person, animal or property or render the same unclean or a nuisance.

05/05/80

**3.0206           Burning**

It shall be unlawful for any person, firm or corporation to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks, or alleys in the City.

05/05/80

**3.0207           Distributing Hand Bills, Etc.**

The scattering, throwing, or placing of bills, posters, advertising matter, handbills, and other similar matter on lawns, porches, yards, sidewalks, steps, streets, alleys, public ways or in or upon automobiles while parked on the streets, alleys or public ways, or public parking lots in the City, by any person, firm, co-partnership, association, or corporation, is hereby declared to be a nuisance and unlawful.

05/05/80

**3.0208           Heavy Vehicles**

No person, firm, or corporation shall move, or cause to be moved, over the paved streets, sidewalks, crosswalks, culverts, bridges, and viaducts, within the City, any engine, tractor, wagon, truck, or other vehicle, object, or thing, which will tend to injury the paving, sidewalks, crosswalk, culvert, bridge or viaduct over which the same are transported, or which exceeds, in pounds per axle the weights as posted by appropriate signs and exceeds 200 pounds per inch of tire width, or any vehicle, to the wheels of which are attached spurs, bars, angle irons, or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the direction and permission of the governing body and, in addition thereto, shall pay or cause to be paid to said City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges

or viaducts. Provided that when the specified load limits herein contained will cause damage to the city paved streets, the governing body by resolution adopted, and made public, may lower said load limits for such period of time it may deem necessary. The provisions of this section shall not apply to state and federal highways through the city.

05/05/80

**3.0209 Removal of Snow and Ice From Sidewalk**

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the City to remove from the sidewalk in front of or along the same, any ice or snow which forms, accumulates or obstructs such sidewalk, within twenty-four (24) hours after the ice forms, or the snow ceases to fall thereon; provided, however, that where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of ashes or sand thereon within the time specified for removal in such manner as to make such sidewalk safe for the travel of pedestrians thereon, shall be deemed a compliance with the provisions of this article.

05/05/80

**3.0210 Removal of Snow and Ice By City**

In case the owner of any lot in the city refuses or neglects to remove such ice from such sidewalk in front of or along a lot therein, the ice or snow therefrom within the time above stated or refuses to sprinkle ashes or sand on the same within the time specified for removal in such manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the City Engineer or Street Commissioner of the City, or ashes or sand sprinkled thereon and the necessary expenses thereof shall be charged against the abutting property by special assessment thereof in the manner prescribed by law.

05/05/80

**3.0211 Street Maintenance**

Whenever, in the judgment of the governing body, or its designated representative or the Chief of Police of the City, it shall be necessary that streets, alleys, or public ways in the City be cleared of snow or ice or be cleaned by the use of street sweepers or other methods of cleaning such streets, or for marking for traffic purposes, or for maintenance, repair or replacement, the ordinances of the City regulating the parking of automobiles, trucks and other motor vehicles shall be suspended and it shall be unlawful for any automobile, truck or other motor vehicle to be parked or left standing between the hours hereinafter mentioned and during the period of time during which the said parking ordinances are suspended.

05/05/80; 02/05/18

**3.0212 Same: Notice**

Whenever it becomes necessary to remove snow or ice or to sweep and clean streets, or to mark streets for traffic purposes or for maintenance, repair or replacement in the City there shall be designated by the governing body, its designated representative or Chief of Police the area and streets to be cleared of snow or ice or cleaned marked, maintained, repaired or replaced as aforesaid and the time during which work shall be done shall be posted in two public places in the City, including the area affected, if possible. To avoid hindering equipment, all vehicles must be moved within 8 hours of the posting of such notice, or by 12:00 noon if the notice is posted after 6:00 p.m. of the preceding day, or the vehicle may be impounded as provided in this chapter. If it is impossible for the owner or operator of a vehicle to move said vehicle because of extreme storm conditions or because the streets are blocked, the vehicle will not be subject to impoundment until

4 hours after the street becomes passable.

05/05/80; 02/05/18

**3.0213 Impounding**

Whenever any parked automobile, truck, machinery, vehicle, or equipment shall be found in any place prohibited by these restrictions, and during the hours as provided herein, the same shall be impounded by the City at a place to be provided and it shall be unlawful for any person, firm, or corporation to remove or attempt to remove any truck, automobile, machinery, vehicle, or equipment from the place where impounded without first paying the cost of such impounding, including all towing charges. The City shall not be responsible for damages caused to any vehicle by such impounding.

05/05/80

**3.0214 Blocking Streets**

No driver of any vehicle shall stop the same on any street, avenue, lane, or alley of the city in such a manner as to hinder or prevent other vehicles or persons from passing at all times, unless in case of absolute necessity, nor shall any driver of any vehicle stop the same at any regular crossing or said street, alley, lane, or avenue, so as to prevent the free passage of persons traveling or passing on foot.

**3.0215 Excavations – Permit**

It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the city without having obtained a permit as is herein required, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.

05/05/80

**3.0216 Excavations – Application**

Applications for such permits shall be made to the Auditor, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefor, and the person, firm or corporation doing the actual excavating work and the name of the person, firm or corporation for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

05/05/80

**3.0217 Excavations – Fees**

The fee for such permits shall be \$5.00.

**3.0218 Excavations – Bond or Cash Deposit**

No such permit shall be issued unless and until the applicant therefor has filed with the Auditor a bond or cash deposit in the sum of Five Thousand Dollars (\$5,000.00) conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation and to insure the proper restoration of the ground and re-laying the surface of the ground or pavement and of making the refill if this is done by the City or at its expense, and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored. Such bond shall have as surety a corporation licensed to do business in the



state as a surety company.

05/05/80

**3.0219 Excavations – Manner Of**

It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the city departments or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.

No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

05/05/80

**3.0220 Excavations – Restoration**

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the city shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground.

Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant, in compliance with the ordinances of the City and under the supervision of the Commissioner of Streets or City Engineer.

05/05/80

**3.0221 Excavations – Supervision**

The Commissioner of Streets or the City Engineer shall from time to time inspect or deem to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the city to see to the enforcement of the provisions of this article. Notice shall be given to him at least ten hours before the work of refilling any such tunnel or excavation commences.

05/05/80

**3.0222 Moving Buildings**

For each building which has been or will be affixed to the land, there shall be a fee for moving said building into or out of the city. The fee for moving a building into the city shall be \$10.00. The fee for moving the building out of the city shall be \$3.00. This fee shall be paid prior to the moving of said building and shall be paid to the City Auditor who will, upon receipt, issue a permit in a form prescribed by the City Auditor. This ordinance shall not apply to mobile homes unless they have been previously affixed to the land so as to lose their status as personal property.

05/05/80

Article 3  
Unclaimed and Abandoned Property

**3.0301 Unclaimed and Abandoned Property – Defined**

Personal property left upon the streets, alleys or other public ways in the City shall be deemed to be unclaimed or abandoned within the meaning of this article when the same is permitted to remain in any one place upon said streets, alleys or other public ways for a period of ten (10) days or more.

05/05/80

**3.0302 Unclaimed and Abandoned Property – Seizure Of**

Whenever any unclaimed or abandoned property is found upon the streets, alleys or other public ways of the City, the same shall be seized and possession thereof taken by any police officer, street commissioner or other officer of the City.

05/05/80

**3.0303 Unclaimed and Abandoned Property – Holding – Notice and Sale**

Such personal property as aforesaid shall be held by the City for a period of not less than ninety (90) days, after its seizure as provided herein and, after the expiration of said ninety (90) days the City Auditor shall cause notice to be published in the official paper of said City, said notice specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said City, and a further notice that said property will be sold, at public auction, to the highest bidder for cash, not less than fifteen (15) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held.

05/05/80

**3.0304 Unclaimed and Abandoned Property – Report of Sale**

At the time specified in said notice the said property shall be sold by the chief of police of the City or by any police officer designated by him, at public auction, to the highest bidder for cash and within three (3) days after the date of said sale, the officer making the sale shall make a report thereof to the governing body, which report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers and the amount received therefor, said report shall be made under oath and subscribed by the officer making such sale and shall be filed with the City Auditor within three (3) days after the date of such sale and such officer, with said report, shall pay to the City Auditor the proceeds of said sale.

05/05/80

**3.0305 Unclaimed and Abandoned Property – Bill of Sale**

Upon the receipt of the report as specified in section 3.0406 hereof the City Auditor shall prepare a bill of sale of the property sold, conveying the same to such purchaser and the same shall be executed by the presiding officer of the governing body and attested by the City Auditor and delivered to the purchaser.

05/05/80

**3.0306 Unclaimed and Abandoned Property – Proceeds of Sale**

The City Auditor shall pay such money as is received from such sales over to the City Treasurer who shall retain the same in a separate account for a period of six (6) months from and after the time of such sale and if the proceeds of such sale are not claimed as hereinafter provided, by the owner of said property, the said money shall thereupon be transferred to the general fund of the City.

05/05/80

**3.0307 Unclaimed and Abandoned Property – Redemption**

Any person owning such personal property seized as aforesaid, may at any time prior to the sale thereof, upon furnishing satisfactory proof of his ownership thereof to the governing body, reclaim such property upon paying the expenses incurred by the City for the seizure, storage or advertising the sale thereof and any person owning such property as aforesaid may at any time six (6) months after such sale and upon making satisfactory proof to the governing body of his ownership thereof, claim the proceeds of such sale, upon payment to the City of the necessary expenses incurred by the City for the seizure, storage and sale of said property.

05/05/80