

TITLE 7
PUBLIC WAYS AND PROPERTY

Subject	Chapter
Construction Of Sidewalks	1
Street And Sidewalk Obstructions	2
Removal Of Ice And Snow	3
Highway Maintenance	4
Excavations	5
City Parks	6

)

)

)

CHAPTER 1

CONSTRUCTION OF SIDEWALKS

SECTION:

7-1- 1:	Specifications For Construction
7-1- 2:	Widths Specified
7-1- 3:	Supervision
7-1- 4:	Grade
7-1- 5:	Notice Of Street Improvements
7-1- 6:	Service Of Notice
7-1- 7:	Failure To Construct After Notice
7-1- 8:	Power Of Council After Failure To Construct
7-1- 9:	Sidewalk Openings
7-1-10:	Prohibited Sidewalk Projections
7-1-11:	Damage To Sidewalks
7-1-12:	Defects To Be Reported
7-1-13:	Violation; Penalty

7-1-1: SPECIFICATIONS FOR CONSTRUCTION: All sidewalks, crosswalks and curbs constructed in the public streets and alleys of the city shall be of concrete only and in accordance with plans and specifications to be approved by the city council. (1983 Code § 12.02.010)

7-1-2: WIDTHS SPECIFIED: All sidewalks constructed in the streets and alleys of the city shall be in widths as follows:

- A. On Northern Pacific Avenue, ten feet (10') in width, including curbing from lot line;
- B. On Kennedy Street, Broadway and Weaver Streets, six feet (6') in width, commencing from lot line to the intersection of said Kennedy, Broadway and Weaver Streets with Central Avenue;
- C. On Kennedy, Weaver and Broadway Streets, except as hereinbefore specified, and on all other streets and alleys of said city, except

Northern Pacific Avenue, five feet (5') in width, commencing one foot (1') from lot line. (1983 Code § 12.02.020)

7-1-3: **SUPERVISION:** All sidewalks, grading and other street improvements hereafter ordered by the city council shall be constructed under the direction and to the satisfaction of the street commissioner, and to correspond to the grade prescribed by ordinance as the established grade of the street so improved, and according to the instructions of the city council. The same rules and regulations shall apply to all street improvements hereafter made, whether ordered by the city council or not. (1983 Code § 12.02.030)

7-1-4: **GRADE:**

- A. **Grade Given By Street Commissioner:** All sidewalks, paving, or other improvements upon streets where no grade has been established shall be built upon the grade given therefor by the street commissioner.
- B. **Failure To Obtain Grade:** If any person shall build any sidewalk, paving, or other street improvement where no grade has been established without first obtaining a grade therefor from the street commissioner, or contrary to any grade given by him, or shall build any street improvement contrary to the grade established by ordinance of the city, or contrary to any of the provisions of this chapter, such person shall be punished as provided in section 7-1-13 of this chapter. (1983 Code § 12.02.040)

7-1-5: **NOTICE OF STREET IMPROVEMENTS:** When any street improvement or repair is ordered to be made by the city council under the provisions of this chapter, such order shall describe the kind of walk or improvement to be built or repaired and state the estimated cost thereof and declare what part of the expenses thereof, if any, shall be borne by the abutting property, or by property to be benefitted, and name the ratio or benefit the property affected will receive from such improvement. After the adoption of such order by the city council, the street commissioner shall forthwith notify the owner or the agent of such owner of the property affected by serving upon him a notice in the manner herein provided. (1983 Code § 12.02.050)

7-1-6: **SERVICE OF NOTICE:** Such notice hereinabove mentioned may be served personally or by leaving the same at the residence or place of business of such owner, or any known agent of such owner. If no owner or agent is known to the street commissioner, then such notice may be served by posting it upon the property where such improvement is to be made. After serving such notice, the street commissioner shall make a certificate of such service, showing the manner and date of such service and shall file the same with the director of finance. (1983 Code § 12.02.060)

7-1-7: **FAILURE TO CONSTRUCT AFTER NOTICE:** If any such improvement shall not be constructed within the time mentioned in the notice, such failure shall be reported to the city council by the street commissioner. (1983 Code § 12.02.070)

7-1-8: **POWER OF COUNCIL AFTER FAILURE TO CONSTRUCT:**

- A. Order Construction: After such report has been rendered, the city council may order the construction of such improvement in conformity with its original order.
- B. Costs: An accurate record shall be kept by the street commissioner of the cost of such construction, and the council may order an assessment, assessing the proportionate share of the expense thereof upon the real property of the owner failing to comply with the said order; and thereafter, the director of finance shall certify such assessment to the county treasurer, to be by him placed upon the assessment roll and collected as other taxes are collected. (1983 Code § 12.02.080)

7-1-9: **SIDEWALK OPENINGS:** Every opening of a vault, coal hole, cellar, or any aperture in a sidewalk over any coal hole or vault shall be protected with a substantial cover and the construction of all coal holes and vaults and the openings thereto in the streets and alleys shall be subject to the direction and supervision of the street commissioner. (1983 Code § 12.02.090)

7-1-10: **PROHIBITED SIDEWALK PROJECTIONS:** It shall be unlawful for any person to construct, or cause to be constructed or placed any porch, door, sign, or window which shall project

over the sidewalk of Northern Pacific Avenue, or to construct any such porch, door, sign, or window on any other street without the permission of the city council being first obtained. (1983 Code § 12.02.100)

7-1-11: **DAMAGE TO SIDEWALKS:** If any person shall break or otherwise injure any footpaths or sidewalks, such person shall, within twenty four (24) hours thereafter, cause the same to be sufficiently repaired. (1983 Code § 12.02.110)

7-1-12: **DEFECTS TO BE REPORTED:** It shall be the duty of the chief of police and all police officers to take note of all defects in sidewalks and streets and report the same to the street commissioner or the city council; and, in case of accident, they shall immediately report the same to the city attorney, together with the names of any witnesses. (1983 Code § 12.02.120)

7-1-13: **VIOLATION; PENALTY:** Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code. (1983 Code § 12.02.130)

CHAPTER 2

STREET AND SIDEWALK OBSTRUCTIONS

SECTION:

- 7-2-1: Obstructions Prohibited
7-2-2: Obstructed Or Unrepaired Sidewalks
7-2-3: Barbed Wire Fences, Poles, Or Wires Prohibited
7-2-4: Violation; Penalty

7-2-1: **OBSTRUCTIONS PROHIBITED:** It shall be unlawful for any person to wilfully and unnecessarily obstruct any sidewalk, street, or alley without permission of the city manager being first obtained, or to fail to remove any obstruction placed in or upon any street, alley, or sidewalk, whenever any permission previously granted shall have been withdrawn, or when notified to do so by the street commissioner, the chief of police, or any police officer. (1983 Code § 12.04.010)

7-2-2: **OBSTRUCTED OR UNREPAIRED SIDEWALKS:** It shall be the duty of the occupant of any premises within the city limits, or in case the same are unoccupied, then the owner or his agent, to keep the sidewalks in front of and adjoining his premises clean and safe for pedestrians, and to repair the same from time to time, and such occupant, owner, or agent shall, with all reasonable dispatch, remove snow, ice, slush, mud, or other impediments to safe and convenient foot travel. (1983 Code § 12.04.020)

7-2-3: **BARBED WIRE FENCES, POLES, OR WIRES PROHIBITED¹:** It shall be unlawful for any person to erect or maintain any poles or wires between the east side of Kennedy Street and the west side of Quaw Boulevard, or to erect or maintain a barbed wire fence anywhere in the city. (1983 Code § 12.04.030; amd. 2009 Code)

1. See also subsection 10-5-11B of this code.

7-2-4

7-2-4

7-2-4: **VIOLATION; PENALTY:** Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code. (1983 Code § 12.04.040)

CHAPTER 3
REMOVAL OF ICE AND SNOW

SECTION:

- 7-3-1: Definitions
7-3-2: Removal Required
7-3-3: Deposit Or Accumulation Prohibited
7-3-4: Failure To Comply; Abatement By City
7-3-5: Violation; Penalty

7-3-1: **DEFINITIONS:** The following definitions shall apply in the interpretation and enforcement of this chapter:

- CITY:** The city of Belgrade.
- LOT OR PARCEL:** A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings and which may include more than one platted lot.
- MANAGER:** The city manager or his/her duly designated and acting representative.
- PERSON:** Any individual, business association, partnership, corporation or other legal entity, to include owner, tenant, occupant, lessee, or otherwise.
- ROADWAY:** That portion of a street or highway improved, designed, or ordinarily used for vehicular travel or parking, exclusive of the berm or shoulder.
- SIDEWALK:** A paved, concrete, or cement pathway intended for public pedestrian use and located parallel to a street or road, on either public right of way or a public use easement. (Ord. 2007-1, 2-5-2007)

7-3-2: REMOVAL REQUIRED:

- A. **Duty To Remove:** Every person owning, in charge or control of, or occupying as tenant any building or lot of land within the city which fronts on, abuts, or contains within a public use easement a sidewalk, shall remove and clear away, or cause to be removed and cleared away, snow, ice, slush, mud, or other impediment to safe and convenient foot travel from so much of said sidewalk as is in front of, abuts on, or is contained within said building or lot of land. It is further such person's duty to prevent accumulation of the same upon such sidewalks.
- B. **Time Limitation For Removal:** Snow, ice, slush, mud, or other impediment shall be removed from all sidewalks in the city by twelve o'clock (12:00) noon of the next day following a snowfall.
- C. **Use Of Sand And Deicing Agents:** When from freezing of water, snow or slush thereon, or by reason of such compaction resulting from the wear of foot travel or from any cause whatever, sidewalks are rendered dangerous, unsafe or difficult to the free passage of pedestrians, it shall be the duty of the owners or tenants of premises in front of, adjoining or contained within a public use easement such sidewalks, to forthwith remedy such conditions by sprinkling sand or deicing agents on the sidewalks, or chipping or by other safe and efficient means. (Ord. 2007-1, 2-5-2007)

7-3-3: DEPOSIT OR ACCUMULATION PROHIBITED: No person shall deposit or cause to be deposited any accumulation of snow or ice on or against a fire hydrant or on any sidewalk, pedestrian roadway crossing, roadway, roadway shoulder or berm, curb or gutter, any handicap parking space, any loading and unloading area of a public transportation system or any area designated for use by emergency vehicles for access. (Ord. 2007-1, 2-5-2007)

7-3-4: FAILURE TO COMPLY; ABATEMENT BY CITY:

- A. **Power Of City Manager:** In the event of the failure of any person responsible for clearing the sidewalk to clear away or treat with abrasives or suitable deicing agents and subsequently clear away any snow, ice, slush, mud, or other impediment from any sidewalk as required by this chapter, or cause this to be done, the manager may,

as soon as practicable after such failure, cause such work to be done at the expense of the property owner.

- B. **Required Records:** The manager shall ascertain and keep a record of:
1. The exact date and costs of all work caused to be done in accordance with this section on account of each act or omission of each person;
 2. A legal description of the lot or lots fronting, abutting on or contained within a public use easement the sidewalks cleared along with the street address; and
 3. The identity of the owner(s) of the premises along with, when possible, any tenant(s), occupant(s) or lessee(s).
- C. **Costs Of Removal:** Each person whose act or omission makes it necessary that the manager cause work to be done in accordance with this section shall be liable to the city for the cost of such work. The costs will be a minimum of twenty five dollars (\$25.00) for up to one-half ($\frac{1}{2}$) hour of snow removal work plus actual time for snow removal beyond one-half ($\frac{1}{2}$) hour prorated at the rate of fifty dollars (\$50.00) per hour, plus an administrative fee of thirty five dollars (\$35.00). Actual fees may exceed the minimum fee in instances in which actual costs are documented to exceed the minimum fee.
- D. **Notice Of Costs; Collection:** The manager shall give each person written notice of the amount owed to the city as soon as practicable. The payment of such amount may be enforced through suit for collection or by levying an assessment on the premises, or both.
- E. **Assessment; Lien:** In the event of assessment, the city council shall annually pass and adopt a resolution levying an assessment and tax against each lot or parcel of land fronting, abutting on, or contained within a public use easement the sidewalks cleared under the order of the manager and according to his/her report. Any such assessment or tax against the lot or parcel of real estate to which this sidewalk clearing service is furnished and for which payment is delinquent, shall become a lien on the real estate receiving the benefit. (Ord. 2007-1, 2-5-2007)

7-3-5: **VIOLATION; PENALTY:** Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than twenty five dollars (\$25.00) or more than fifty dollars (\$50.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. There shall be no penalty of imprisonment for a violation of this chapter. (Ord. 2007-1, 2-5-2007)

CHAPTER 4
HIGHWAY MAINTENANCE

SECTION:

- 7-4-1: Agreement To Maintain Highway
7-4-2: Authorization Of County To Do Work

7-4-1: **AGREEMENT TO MAINTAIN HIGHWAY:** The city hereby agrees to maintain the following described portions of the federal aid constructed highway in an adequate manner and to the satisfaction of the state highway department:

Approximately three-tenths ($\frac{3}{10}$) of a mile of the secondary and feeder highway, known as the Belgrade-West Road, which runs at a point commencing on U.S. Highway 10, thence southwest on Broadway Street until the said Broadway Street intersects with Madison Avenue and thence west on Madison Avenue to the city limits. (1983 Code § 12.06.010)

7-4-2: **AUTHORIZATION OF COUNTY TO DO WORK:** The city agrees that if, for any reason, it is unable to maintain the previously described portion of the above named road to a standard satisfactory to the state highway department and Gallatin County, said Gallatin County is thereupon authorized to perform the necessary work to place the road, within the incorporated city limits, in a satisfactory condition by such means as may be at the disposal of said Gallatin County and that said Gallatin County will be reimbursed by the city for any expense it may incur in the performance thereof, on the basis of cost plus ten percent (10%). (1983 Code § 12.06.020)

)

)

)

CHAPTER 5
EXCAVATIONS

SECTION:

- 7-5-1: Permit Required; Hindrance Or Obstruction Prohibited
- 7-5-2: Bond
- 7-5-3: Liability Insurance
- 7-5-4: Bonding And Insurance Coverages
- 7-5-5: Penalty

7-5-1: **PERMIT REQUIRED; HINDRANCE OR OBSTRUCTION PROHIBITED:** No person shall impede, obstruct, or tear up any pavement, sidewalk or crosswalk, or any part thereof; dig any hole, shaft, ditch or drain; or dig or remove any sod, earth, stones, sand or gravel from any street, avenue, alley and public place without first having obtained a permit from the director of public works; or hinder or obstruct the making or repairing of any public improvement or work ordered or done by or under the authority of the city. (Ord. 2005-1, 3-7-2005)

7-5-2: **BOND:** All applicants requesting permits to excavate in any public right of way shall either file or have on file with the director of public works a street opening bond prior to conducting any work in the public right of way. The bond may be posted in cash or by a bond issued by a company licensed to do business in the state of Montana. (Ord. 2005-1, 3-7-2005)

7-5-3: **LIABILITY INSURANCE:** All applicants requesting permits to excavate in any public right of way shall either file or have on file with the director of public works proof of general liability insurance coverage, prior to conducting any work in the public right of way. The insurance company shall be licensed to do business in the state of Montana. (Ord. 2005-1, 3-7-2005)

7-5-4: **BONDING AND INSURANCE COVERAGES:** The amount of bonding and insurance coverages required shall be as established, and may be amended from time to time, by resolution of the city council. (Ord. 2005-1, 3-7-2005)

7-5-5: **PENALTY:** Violation of this chapter constitutes a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-1, 3-7-2005; amd. 2009 Code)

CHAPTER 6
CITY PARKS

SECTION:

- 7-6-1: Definitions
7-6-2: Hours Of Occupancy
7-6-3: Violation; Penalty

7-6-1: **DEFINITIONS:** The following words used in this chapter shall be defined as follows:

PARKS: Any public playground, athletic field, picnic facility or recreational area owned or controlled by the city and used for the purpose of recreational or cultural activities.

VEHICLE: Every device in, upon or on which any person or property may be transported or drawn on a public highway including automobiles, trucks, commercial motor vehicles, trailers, motor homes, recreational vehicles, and motorcycles. (Ord. 93-7, 10-4-1993)

7-6-2: **HOURS OF OCCUPANCY:** It shall be unlawful for any person to remain upon or cause any vehicle to remain upon the premises of any park or city owned adjoining property between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M. without written permission of the city. All unauthorized vehicles shall be towed away at the owner's expense. (Ord. 93-7, 10-4-1993)

7-6-3: **VIOLATION; PENALTY:** Any person who shall violate any provision of this chapter shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code. (Ord. 93-7, 10-4-1993)

1

2

3