

Chapter 22

STREETS AND SIDEWALKS*

* **Charter References:** Authority of council to establish, etc., streets and sidewalks, § 5.4; ordinances granting franchisee right to use streets, etc., § 6.7; city manager to have charge of construction, repair, etc., of streets and sidewalks, § 8.2; use of streets by public utilities, § 15.11; notice to city of claim for injury arising from street defects, § 17.2.

Cross References: Buildings and building regulations, Ch. 5; fire prevention and protection, Ch. 8; junk, junkyards, secondhand dealers, Ch. 13; public improvements, Ch. 20; rates, charges, and fees, Ch. 21; subdivisions, Ch. 23; water, sewers and sewage disposal, Ch. 28; stormwater runoff regulation, Ch. 29; downtown development authority, Ch. 30.

State Law References: Removing obstructions and encroachments on highways, M.S.A., § 27A.2937.

Constitution reference--Right of city to reasonable control of highways, streets, etc.; consent of city required for use of highways, streets, etc., by public utility, Art. VII, § 29.

Art. I. In General, §§ 22-1--22-15

Art. II. Sidewalks, §§ 22-16--22-37

Art. III. Streets, §§ 22-38--22-62

Art. IV, §§ 22-70—22-71

ARTICLE I.

IN GENERAL

Sec. 22-1. Use of public right-of-way.

(a) Any use or activity within the public right-of-way shall first require permission from the city council, either directly or as delegated by ordinance, except:

- (1) The regular movement of vehicles and pedestrians when conforming to applicable traffic regulations.
- (2) Landscaping and landscape maintenance not constituting a traffic hazard as determined by the city's traffic engineer.
- (3) Picketing, either for economic or political purposes, when conducted in conformance with Chapter 16 of this Code.
- (4) Any work by public employees or persons under contract to a public agency.
- (5) The proper placement of refuse for collection by city forces.
- (6) United States Postal Service boxes, or individual mailboxes for mail delivered by the postal service, when any such box is kept in good condition and does not constitute a traffic hazard as determined by the city's traffic engineer.
- (7) Receptacles for newspapers only when attached to a support with a mailbox.
- (8) Public utility facilities and operations when in accord with a state or city franchise, applicable plats, and this chapter.

(b) Contractors' trailers, reasonable quantities of material for adjacent construction, and certain structures and/or appendages thereto may be located within the public right-of-way in accord with Chapters 44 and 45 of the Uniform Building Code as adopted by this Code.

(c) The city council hereby delegates the review and approval of requests for neighborhood block parties to the city engineer who may issue a traffic control order permitting such activity.
(Ord. No. 1123, § 2, 4-13-87)

Editors Note: Ord. No. 1123, adopted April 13, 1987, repealed § 22-1 and added a new § 22-1 as herein included. Former § 22-1 concerned uses of streets and sidewalks for merchandise and construction materials.

Cross References: Dogs at large, § 3-17; removal of dead dogs, § 3-33; landing of aircraft, § 4-20 et seq.; building code, § 5-16 et seq.; food-handling facilities, § 9-16 et seq.; garbage, refuse and litter, Ch. 10; junk dealers' place of business, § 13-3; abandoned motor vehicles, § 13-24; miscellaneous licenses, § 15-26 et seq.; solicitors, § 15-100 et seq.; miscellaneous provisions and offenses, Ch. 16; uniform traffic code, § 24-11 et seq.; trees and shrubs, § 26-32 et seq.; vehicles for hire, Ch. 27.

Sec. 22-2. Signs, posters, etc., in or on public right-of-way.

(a) It shall be unlawful to print, paint, place, install or otherwise affix any sign, poster or advertisement upon the pavement or sidewalk, or in the outlawn or parkway area adjacent to any public street or right-of-way, or upon any post, tree or other object located on any public street or right-of-way in the city. However, the city council may, by resolution, authorize the placing of signs, posters or advertisements in such places, when, in the opinion of the city council, such signs, posters or advertisements are of public or civic interest. For purposes of this section, the phrase "public or civic interest" includes real estate open house and builders' parade of homes directional signs; provided, however, that real estate open house directional signs shall only be permitted in the public right-of-way for a period of no more than twelve (12) consecutive hours and builders' parade of homes directional signs shall only be permitted in a public right-of-way no more than four (4) times per calendar year and for a period of no more than seventy-two (72) consecutive hours. Additionally, real estate open house and builders' parade of homes directional signs must meet the following requirements:

- (1) The maximum size of each sign shall be six (6) square feet.
- (2) The maximum height of each sign shall be thirty-six (36) inches above the elevation of the crown of the roadway.
- (3) At any given time, no more than one (1) sign will be permitted at any corner of an intersection.

As to any other type of sign determined by the city council to be of public or civic interest, any restrictions on the size, height and number of such signs shall be set forth in the authorizing resolution.

Any sign permitted in a public right-of-way shall not obstruct or otherwise interfere with vehicular or pedestrian traffic.

(b) Reflective address signs.

- (1) Reflective address signs shall not be attached to any tree in the city's right-of-way.
- (2) Reflective address signs may be attached to mailboxes and mailbox posts. This placement is the preferred location.
- (3) Permanently installed reflective address signs may be located in the public right-of-way or dedicated public easement, but not closer than two (2) feet from the curb or designated shoulder area.

Permanently installed reflective address sign posts shall not exceed a dimension of four (4) inches by four (4) inches and the posts shall not exceed a height of four (4) feet above ground level.

- (4) Not more than one (1) reflective address sign designating a residence shall be placed on any single family residential lot or public right of way abutting a single family residential lot. Placement on corner lots shall be in the right of way area adjacent to the street designating the address.

(5) Reflective address signs shall be no larger than two (2) square feet in total sign area.

(Ord. No. 1123, § 3, 4-13-87; Ord. No. 1333, § 1, 12-18-95; Ord. No. 1518, § 1, 10-8-01)

Editors Note: At the request of the city, the zoning ordinance, Ord. No. 727, is not included in this Code but is on file in the office of the city clerk. Article 31 of the zoning ordinance pertains to signs.

Cross References: Tree and shrub protection, § 26-36.

Sec. 22-3. Driving, walking on new pavement, sidewalks, etc.

No person shall go upon nor drive, or cause to be driven, any vehicle or animal upon any new pavement, sidewalk, curbing, gutter, or other construction work until such work has been completed, and any street closing sign or barricade posted or placed thereon has been removed by the proper authority.

Sec. 22-4. Utility street boxes.

No water or other public utility shut-off boxes or curb meter boxes shall be covered or obstructed in building or repairing any street area.

Cross References: Water generally, § 28-12 et seq.

Sec. 22-5. Parade permit required.

It shall be unlawful for any person to conduct or participate in a parade of any kind or character on any of the streets or in any of the public places of the city without first obtaining a permit from the city council.

Cross References: Licenses and business regulations, Ch. 15.

Sec. 22-6. Placing or depositing snow, ice or slush on sidewalks.

It shall be unlawful for any person to place or deposit, or cause to be placed or deposited, snow, ice or slush on any sidewalk in the city. As used in this section, the word "person" shall mean every natural person, firm, copartnership, association or corporation and their legal successors but shall not include the city or an employee of the city operating within the scope of his duties. For all purposes of this section, the person in ownership or control of the private property, contiguous to the sidewalk where the placing or depositing of snow, ice or slush has occurred, shall be deemed prima facie responsible for these unlawful acts.

(Ord. No. 1143, § 2, 2-29-88)

Sec. 22-7. City engineer to enforce chapter; injunctive relief.

The city engineer shall enforce this chapter and shall be authorized to make application in the proper court for a writ of injunction restraining any person from violating any of the provisions of this chapter.

(Ord. No. 1143, § 1, 2-29-88)

Secs. 22-8--22-15. Reserved.

ARTICLE II.

SIDEWALKS*

* **Editors Note:** Ord. No. 1509, § 1, adopted July 9, 2001, amended Art. II in its entirety, in effect repealing and reenacting Art. II to read as herein set out. Formerly, Art. II pertained to similar subject matter and derived from Ord. No. 899, § 4, adopted March 14, 1977; Ord. No. 974, § 2, adopted March 17, 1980; Ord. No. 1345, § 1, adopted March 18, 1996.

Prior to the adoption of Ord. No. 1509, Ord. No. 899, § 3, adopted Mar. 14, 1977, repealed former Art. II, §§ 22-16--22-24, 22-27, relative to sidewalks, derived from: Ord. No. 839, § 2, enacted July 29, 1974; Ord. No. 896, §§ 1, 2, enacted Nov. 1, 1976. Section 4 of said Ord. No. 899 added a new Art. II in lieu thereof, to read as herein set out.

DIVISION 1.

IN GENERAL

Sec. 22-16. Construction of sidewalks and assessment procedures.

The city manager shall prepare and submit to the council annually on or before the first day of March a description of all locations not having sidewalks on both sides of improved city streets. Said list shall estimate the cost to the city and the cost to the landowner to install sidewalks at each location, together with any comments concerning said location which the city manager desires to make. The council shall thereafter initiate an annual sidewalk program encompassing as many of these locations as it may determine

should be included for the construction of sidewalks on either or both sides of these streets in accordance with the special assessment procedures of chapter 20 of the Code of Ordinances.
(Ord. No. 1509, § 1, 7-9-01)

Editors Note: Prior to the reenactment of § 22-16 by Ord. No. 1509, Ord. No. 974, § 1, adopted March 17, 1980, repealed § 22-16 which pertained to streets exempt from sidewalk construction requirements and was derived from Ord. No. 899, § 4, adopted March 14, 1977.

Sec. 22-17. Sidewalk construction standards; permit.

All sidewalks shall be constructed in strict conformity with grades and specifications pertaining thereto adopted or approved by the city engineer. No sidewalk shall be constructed by a property owner or sidewalk builder hired by a property owner until a written permit for such work shall have been obtained from the city engineer and the required fee has been paid.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-18. City engineer to set sidewalk line, grade; keep records.

Wherever sidewalks are ordered constructed on any street or any part thereof, or where a permit has been issued for the construction of a sidewalk, it shall be the duty of the city engineer to indicate the sidewalk line and grade by setting stakes. A record of such information shall be kept in the city engineer's office.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-19. Doors, gratings, etc., in sidewalks.

No person shall place any door in any sidewalk unless the design and specifications therefor shall be approved by the city engineer. No open iron grating or other open devices, nor any device containing glass, shall be placed in or used as the surface of any sidewalk unless such device conforms to the specifications provided by the city engineer.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-20. Sidewalk construction; initiation and costs.

Sidewalk construction may be initiated under the provisions of article II or article II of chapter 20 or upon the written request of the property owner to the city engineer. The cost of construction, except as otherwise provided in chapter 20, shall be as follows:

- (1) Where a lot has multiple frontages and cannot be divided into one (1) or more additional lots, the property owner shall pay all of the costs of construction on the narrow side and all of the cost on any additional required sidewalk.
- (2) Where a property owner has on his own initiative applied for a permit to construct or have constructed a sidewalk and the provisions of subsection 22-20(1) apply, no permit shall be issued unless sufficient funds for city reimbursement are available. Reimbursement shall be made by the city upon certification of satisfactory completion by the city engineer. Reimbursement shall be at one-half the actual cost of the additional construction but in no case shall exceed one-half (1/2) the rate contained in the most recent city awarded contract for sidewalk construction.

(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-21. Sidewalk construction--Who may perform.

The owner of property adjacent to a proposed sidewalk may contract with a licensed sidewalk builder to have such sidewalk laid and constructed or such owner may construct any such sidewalk upon obtaining the permit required in section 22-17. This right may also be granted within time periods as defined under sidewalk proceedings under chapter 20.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-22. License for sidewalk builders.

Any person in the business of sidewalk builder, including construction and repair, shall comply with the licensing provisions of chapter 15 of this Code and pay the required license fee.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-23. Sidewalk repair defined.

The term "sidewalk repair" as used in this article and chapter 20 shall include any reconstruction work of existing defective sidewalks including replacement, relaying, patching, filling to grade or grading that may be required to bring the existing sidewalk to a condition satisfactory for public use.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-24. Initiating sidewalk repair.

The repair of any public sidewalk may be initiated by a request of the owner or owners of the property affected to the city engineer, by the city engineer, or by a resolution adopted by the city council ordering the work done.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-25. Budget restrictions.

Before any sidewalk repairs are ordered or approved by the city engineer, there first shall be sufficient funds available in the annual city budget for sidewalk repair.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-26. Sidewalk repairs to be by city.

Sidewalk repairs which are ordered shall be made by the city, either by force account or by contract, unless the city engineer shall provide that the work may be done by an abutting owner. The cost thereof, including engineering and inspection, shall be borne by the city; except in cases where the city engineer shall permit repair work to be done by an abutting owner, he shall determine the reasonable cost thereof to be borne by the city which shall be reimbursed to said abutting owner.
(Ord. No. 1509, § 1, 7-9-01)

Sec. 22-27. Sidewalk defects caused by negligence.

The city shall have the right, through the city engineer, to order a sidewalk repaired by persons who have caused the repair to be necessary or make the repair and bill the cost thereof to such persons. Such repairs are those caused by excavating under or adjacent to the sidewalk, caused by placing weight upon the sidewalk greater than its design capacity, or caused by defective sidewalk construction performed by the adjacent property owner or his agents.
(Ord. No. 1509, § 1, 7-9-01)

Secs. 22-28--22-32. Reserved.

DIVISION 2.

DOWNTOWN STREETScape

Sec. 22-33. Downtown Development Authority District Public Sidewalk Use Policy.

In the interest of promoting business by increasing activity and improving the general business climate in the Downtown Development Authority District, that being the area specified in chapter 30, section 30-5, the City of Midland may issue revocable permits to businesses within the district who apply for a permit to operate an exterior establishment as an extension of, or compatible with, the existing business on a portion of a public sidewalk. This language shall not be construed as to require sidewalk occupancy permits for entities participating in periodic, district-wide events such as those sponsored by the Downtown Development Authority or Downtown Business Association.¹ Exterior activities are limited to activities carried on by the existing business. A permit may be issued under the following terms and conditions:

¹Uses of public right-of-way in the downtown remain subject to provisions of chapter 22 of the Midland Code of Ordinances. Permits for such activities as parades and block parties remain required.

- (1) *Administration*--Such permits shall be issued by the City Manager, or his designee.
 - a. Permits will be issued when the city is able to determine that the requested public sidewalk use permit will not:
 1. Unreasonably interfere with the use of the street for pedestrian or vehicular travel.
 2. Unreasonably interfere with the view of, access to, or use of property adjacent to said street.
 3. Unreasonably interfere with street cleaning or snow removal activities.
 4. Cause damage to the street, trees, benches, landscaping, or other objects lawfully located within the street right-of-way.
 5. Cause a violation of any state or local laws.
 6. Be principally used for off-premises advertising.
 7. Be attached to, or reduce the effectiveness of or access to, any utility pole, sign, or other traffic control device.
 8. Reduce pedestrian travel area of any sidewalk to less than five (5) feet in width.
 9. Hinder safe pedestrian use of sidewalks or safe ingress or egress to any building.
 - b. Applications to alter existing streetscape elements in order to better accommodate private use of public sidewalk shall be reviewed by the departments of engineering, public utilities, and public works. Upon receiving a report outlining departmental reviews, the Downtown Development Authority shall offer a recommendation regarding approval of the application to the city council. Expenses associated with requested changes shall be borne by the applicant.
- (2) *Sale of food and beverages*--To secure a public sidewalk use permit for the sale of food and/or beverages in an area located on a public sidewalk, the following conditions must be met:
 - a. Areas of the sidewalk licensed for the consumption of alcohol shall be enclosed by a structure approved by the Downtown Development Authority. The purpose of this structure shall be to delineate the private use area from the public access area of the sidewalk. Said structure shall be aesthetically compatible with the streetscape and area buildings. The structure will be removable to accommodate efficient snow removal activity but yet of sufficient construction so as to prevent relocation by patrons or pedestrians.
 - b. Sidewalk areas used for the sale and/or consumption of food and/or beverages shall be kept in a clean and orderly manner and shall, at a minimum:
 1. Be provided with adequate solid waste receptacles so as to allow for the convenient disposal of waste materials associated with the private use of the sidewalk space.
 2. Tables, chairs, and other appurtenances of the food and/or beverage consumption area shall be placed in such a manner so as not to hinder safe pedestrian use of the sidewalk and shall not block ingress or egress to any building.
- (3) *Insurance requirements*--Prior to the issuance of a sidewalk occupancy permit, the applicant must supply the city with a certificate of liability insurance in an amount to be determined by the city. The certificate of insurance must be in effect for at least the period that the permit will be issued. In addition, the applicant shall indemnify and hold harmless the city from all claims or damages incident to the creation and operation of an outside establishment.
- (4) *Effective dates and hours of operation*--All permits shall specify the dates and duration of the permitted sidewalk

occupancy, and the permits shall be valid for only the specified period. Permits may not be granted for a period in excess of twelve (12) months. All permits shall specify the hours during which the permitted sidewalk occupancy may occur during any given day of the valid permit period.

- (5) *Revocation*--All permits issued under this article are subject to immediate revocation by the city manager, or his designee, for failure to comply with any or all provisions of this article.

(Ord. No. 1509, § 1, 7-9-01)

Secs. 22-34--22-37. Reserved.

ARTICLE III.

STREETS

Sec. 22-38. Permit required for street, driveway work or excavation; exception.

No person shall make any opening or excavation in or under any street, or construct or change any driveway approach, or do any work under or within the limits of any street, without first obtaining a permit therefor from the city engineer. No permit shall be required for the installation of public utility pole lines, nor for work done at the direction of the city either by contract or by employees of the city.

Sec. 22-39. Permits for public utilities.

Any public utility operating in the state under the jurisdiction and control of the Michigan Public Service Commission, its successors or assigns, upon written application on a form furnished by the city, and upon filing an annual bond and the payment of an annual fee shall be granted a permit for the installation, replacement or repair of any underground facilities in a public street for a period of one year from the date thereof. No annual permit, however, shall authorize any major construction or major repairs of utility services in or under the city streets for which a separate permit must be secured as provided in section 22-38. Any public utility which has not procured an annual permit may be issued permits without deposits and shall pay the regular permit fee and surface replacement cost on a monthly basis.

Sec. 22-40. Weekly reports from public utilities.

Every public utility performing any work by authority of any annual street permit, at the end of each week, or, whenever required by the city engineer, shall file a written report with the city engineer on a form provided by him, showing all work performed by it within the city during the previous period of time, and shall pay the city for the actual cost to the city of replacing the surface of any street to its original condition for street openings made by such public utilities.

Sec. 22-41. Reserved.

Editors Note: Ord. No. 1414, § 2, adopted June 22, 1998, renumbered the former § 22-41 as § 21-27.

Sec. 22-42. Deposit for street cut permit.

When any street cut is to be made, the city engineer shall estimate the cost of replacing the street surface previous to the issue of any permit required by this article. Applicants for such permits shall deposit a sum equal to the engineer's estimate with the city treasurer. Such deposit shall be used by the city in making any necessary replacements to the street surface. The application blank shall provide that any balance of the deposit over and above the actual cost of the work shall be refunded to the applicant, and that the applicant agrees to pay any additional sum in the event the actual cost exceeds the amount of the deposit.

Sec. 22-43. Plans, specifications to be approved by city engineer; emergency exception.

No permit required by this article shall be granted until the plans and specifications for the work proposed to be done shall have been approved by the city engineer. In case of an emergency occurring after office hours, at night, Sunday or legal holidays, when an immediate excavation may be necessary for the protection of public or private property, such shall be reported to the police department which shall grant permission to make the necessary excavation upon the express condition that an application be made for a permit on or before noon of the next business day.

Sec. 22-44. Bond, insurance required for permit--Generally.

No permit required by this article shall be granted for doing any work until a bond and a policy of insurance have been filed with the city engineer, except as otherwise provided.

- (a) The bond shall be in the sum of one thousand dollars (\$1,000.00), and shall be conditioned to pay all damages to the streets of the city or any sewer, water main or extension, or utility facility beneath the surface thereof, and for the faithful performance of the provisions of this chapter.
- (b) The insurance required shall be such public liability and property damage insurance as shall protect the applicant and the city from claims for damages for personal injury, including wrongful death, as well as claims for property damage. Such policy shall name the City of Midland as an additional assured. The amounts of such insurance shall not be less than one hundred thousand dollars (\$100,000.00) for injuries, including wrongful death to any one person, and subject to the same limit for each person in an amount not less than three hundred thousand dollars (\$300,000.00) on account of one accident, and property damage insurance in an amount not less than ten thousand dollars (\$10,000.00).

Sec. 22-45. Same--For large corporations.

Any corporation having net assets in the amount of five million dollars (\$5,000,000.00) over and above all liabilities may obtain the permit required by this article without complying with the bond and insurance requirements set forth in section 22-44 by furnishing, at the time of application for permit, a financial statement and an indemnification certificate holding the city harmless against all claims of public liability and property damage.

Sec. 22-46. Same--Public utilities.

Any public utility applying for an annual or specific permit under section 22-39 shall file a bond in the penal sum of five thousand dollars (\$5,000.00) conditioned upon the faithful performance of the provisions of this chapter, and so long as such bond shall be in effect, no other bond shall be required from such utility. Such utility shall provide, however, the policy of insurance required by section 22-44.

Sec. 22-47. Bond, insurance not required for residential curb cuts, driveway approach construction.

No bond or insurance shall be required in connection with residential curb cut and driveway approach construction. (Ord. No. 774, § 2, 4-19-71)

Amendment note--Prior to amendment by Ord. No. 774, § 2, § 22-47 provided that bond or insurance was not required for curb cuts or drive approach construction.

Sec. 22-48. Permit display.

All permits required by this article shall be prominently displayed or made readily available at the place where any work regulated by this chapter is being performed.

Sec. 22-49. Inspection; permit suspension, revocation.

The city engineer shall inspect all work done under any permit issued pursuant to this article. The city engineer may, for cause, suspend any permit, and may cause such permit to be revoked where either the workmanship or materials used do not conform to the plans and specifications approved upon the issuance of the permit, or when the terms of any permit or of this chapter are violated. No person shall perform any work authorized by any permit or cause any such work to be performed while the permit is suspended.

Sec. 22-50. Lights, barricades, detour signs; notice to fire department.

All openings and obstructions in any street, lane or alley must be guarded at all times with sufficient barriers, and during the night, openings and obstructions shall be indicated by lights and such other precautions as shall be necessary to guard the public against accidents. Necessary traffic detour signs shall be erected. When a street is completely barricaded, the contractor shall notify the fire

department immediately of such barricade.

Sec. 22-51. Backfill generally.

All excavations made in either a paved or an unpaved street, unless specifically exempted by the city engineer, shall be backfilled as quickly as possible with sand. The backfill shall be compacted by mechanical methods or by satisfactory flooding with water and shall be brought to the level of the existing street surface. Upon completion, the person making such excavation shall notify the superintendent of public works, who shall then be responsible for future maintenance of such area and for the replacement of the original surface.

Sec. 22-52. Excavations between curb and property line, etc.; backfill.

Whenever any person makes an excavation between the street curb or street line and the sidewalk line or property line, the trench shall be backfilled by mechanical tamping, or by flooding with water, and all excess excavated material shall be removed immediately from the site. When the excavation is an improved area, black dirt shall be placed in the upper portion of the trench, and either sod or grass seed shall be placed thereon as required by the city engineer. The person making such cut shall be responsible for the replacement of any future settlement of the trench within this area for a period of one year.

Sec. 22-53. Pipe culverts.

All pipe culverts shall be laid, constructed and repaired by the city, except as otherwise provided herein.

Sec. 22-54. Culverts for private driveways.

Culverts may be ordered under private driveway approaches where deemed necessary by resolution of the city council. All pipe culverts for private driveway approaches laid, constructed and repaired, shall be of corrugated iron pipe, cast-iron pipe or concrete culvert pipe.

The cost of a ten (10) inch pipe and materials necessary to install culvert shall be paid for by the owner. If a size larger than ten (10) inches is required, the city shall pay the difference in cost between the larger size required and the cost of a ten (10) inch culvert. The city shall pay the cost of all labor required to install culvert.

Sec. 22-55. Reserved.

Editors Note: Ord. No. 775, § 1, adopted April 26, 1971 repealed former § 22-55 pertaining to the promulgation and approval of additional construction standards.

Sec. 22-55.1. Definitions.

- (a) *Buffer area* means a portion of a highway right-of-way adjacent to a pavement that serves as a physical barrier between highway and activity on private property.
- (b) *Circle driveway* means a private driveway that enters and leaves private property at two (2) points within the same frontage.
- (c) *Clear vision area* means land acquired or used by the agency having jurisdiction over a highway for the purpose of maintaining unobstructive vision.
- (d) *Commercial driveway* means a driveway serving a commercial establishment, industry, governmental or educational institution, hospital, church, apartment building or other large traffic generator.
- (e) *Department* means the engineering department of the City of Midland.
- (f) *Directional driveway* means a driveway designed so that traffic leaving the highway is separated from traffic entering the highway with some turning movements prohibited.
- (g) *Divided driveway* means a driveway designed so that traffic leaving the highway is separated from traffic entering the

highway.

(h) *Dual service driveway* means two (2) adjacent commercial driveways designated to facilitate traffic movement from a highway to a single private property by use of either driveway and a return to the highway by use of the other driveway.

(i) *Field entrance* means a driveway serving a farmyard, cultivated or uncultivated field, timber land or undeveloped land not used for industrial, commercial or residential purposes.

(j) *Frontage* means a private property line that abuts a highway right-of-way.

(k) *Limited access* means a highway right-of-way in respect to which owners or occupants of abutting lands and other persons having no legal right of access to or from the highway except at designated access points, determined by the public authority having jurisdiction over the highway.

(l) *Residential driveway* means a driveway serving a private home.

(m) *Right-of-way* means a boundary between private property and public land under legal control of the agency having jurisdiction of the highway.

(n) *Utility structure driveway* means a driveway serving a utility structure such as a pumphouse or substation which operates automatically and requires only occasional access.
(Ord. No. 775, § 2, 4-26-71)

Amendment note--Ord. No. 775, § 2, amended this Code by adding §§ 22-55.1--22-55.3.

Sec. 22-55.2. Adoption of state rules and regulations; exceptions; incorporation by reference.

For the purpose of carrying out the city's responsibilities as defined in Article III of Chapter 22 of the Midland Code of Ordinances, Part 2, Driveway Permits, except Rules 26 and 27 thereof, and Part 3, Driveway Design Standards, including figures and tables contained therein of the Rules and Regulations of the Michigan Department of State Highways filed with the secretary of state on June 30, 1970, under authority conferred upon the department of state highways by Section 5 of Act 200 of the Public Acts of 1969, are hereby adopted by reference and made a part of the Code of Ordinances of the City of Midland.
(Ord. No. 775, § 2, 4-26-71)

Note: See amendment note following § 22-55.1.

Sec. 22-55.3. Provisions applicable where driveway permit denied under state rules and regulations.

For any driveway permit which may be denied by the city engineering department under these rules and regulations [see section 22-55.2], the provisions of section 15-15 of the Midland Code of Ordinances, relating to appeals, shall govern.
(Ord. No. 775, § 2, 4-26-71)

Note: See amendment note following § 22-55.1.

Sec. 22-56. Removal of street material.

No person shall remove any dirt, gravel or stone from the traveled portion of any street, except upon receiving a permit issued by the city engineer.

Sec. 22-57. Protection of streets, signs, barricades.

No person shall wilfully move, alter, deface, injure or destroy any part or accessory of any street or alley, or any sign or barricade erected or placed to protect, warn or guide the public.

Sec. 22-58. Changing street names--Initiating proceedings; petition.

Proceedings for the change of name of streets in the city may be commenced by resolution of the council on its own initiative, or by an initiatory petition signed by the owners of property located on the street desiring a name change. The council shall determine by

resolution the cost involved in the change of name, and petitions shall be accompanied by a deposit to cover said costs.

Petitions shall be addressed to the council and filed with the city clerk. All petitions shall be on forms furnished by the city.

Sec. 22-59. Same--Preparation for hearing.

The matter of change of name of any city street shall be referred by the council to the planning commission for consideration and recommendation. Upon receipt of recommendation from the planning commission, the council shall by resolution cause a public hearing to be held not less than two (2) weeks from the date of such resolution. Notice of such hearing shall be made by one publication in a newspaper circulated in the city at least one week prior to the holding of the hearing.

Sec. 22-60. Same--Hearing; result of hearing; when costs refunded.

At the public hearing on the proposed change of name, all persons interested shall be given an opportunity to be heard. In the event the change of name is adopted, a certified copy of such resolution shall be forwarded by the city clerk to the auditor general and recorded with the register of deeds. In the event the change of name does not result, refunds of the required costs shall be made to the person making the original deposit.

Sec. 22-61. Street construction costs.

The cost of constructing streets which are ordered by resolution of the city council shall be billed and assessed as follows:

- (1) Where a lot has multiple frontage and cannot be divided into one or more additional lots, the property owner shall be assessed all of the cost of construction on the narrow side and one-half of the cost on any additional required street except in the case of property in any subdivision platted on or after April 24, 1956, the entire cost of construction shall be assessed against the property owner.
- (2) Street construction may be under the provisions of Article II of Chapter 20 or under the provisions for advance financing by property owners contained in Article III of Chapter 20.

(Ord. No. 899, § 5, 3-14-77)

Sec. 22-62. Property not having previously paid for public street improvements.

For property which has not borne the expense of adjacent public street improvements, the city engineer shall not approve a driveway permit, a storm sewer connection, or a new street connection to said public street improvements until a payment is made by the owner of said property at a rate equal to one-half (1/2) the cost of construction of a twenty-eight-foot-wide street, indexed to the year of connection using *The Engineering News Record*, "The Construction Cost Index," and calculated by the city engineer on a front foot basis. The property owner may choose to pay this fee in five (5) installments, the first installment being due at the time of connection, and the deferred installments being due annually thereafter, with interest accumulating at the rate of the most recent rate established by the city council for annual payments of special assessments. In such event, this charge shall constitute a lien on the premises subject thereto, and that amount shall also be a debt to the person to whom assessed until paid.

Annually, the city engineer shall notify the director of fiscal services of any such charges due. The director of fiscal services shall forward a statement of the total charges assessed on each parcel of property to the owner, as shown by the last current assessment or tax roll, and said assessment shall be payable to the city treasurer within thirty (30) days from the date said statement was forwarded. If not paid within the prescribed thirty-day period, such statement shall be filed by the director of fiscal services with the city assessor and shall thereupon be assessed against the land in question and become a lien on such property, in accordance with the City of Midland charter. The amount so charged may be discharged at any time by the payment of the amount specified in the statement, together with the accrued interest compiled from the time of filing said statement with the city assessor.

(Ord. No. 1129, § 1, 11-1-91; Ord. No. 1325, § 1, 8-28-95)

ARTICLE IV.

ADDRESSES

Section 22-70 Addresses.

Addresses within the City of Midland shall be assigned by the City.

Section 22-71 Municipal Civil Infraction.

Owners of property having an address not assigned by the City of Midland are responsible for a municipal civil infraction, and shall be subject to Section 34-5 of the City of Midland Code of Ordinances. Nothing in this section shall be construed to limit the remedies available to the City in the event of a violation by a person of this ordinance.

(Ord. No. 1561, 6-23-03)