

AN ORDINANCE OF THE BOROUGH OF MONTROSE PERTAINING TO CURB AND GUTTER CONSTRUCTION AND REPAIR; SIDEWALK CONSTRUCTION AND REPAIR; DRIVEWAYS; MAINTENANCE OF SIDEWALK AREA; STREET AND SIDEWALK OBSTRUCTIONS; FIRES WITHIN THE STREET RIGHT-OF-WAY; AND EXCAVATIONS WITHIN THE STREET RIGHT-OF-WAY

Be it ordained by the Council of the Borough of Montrose, as follows:

ARTICLE I

Curb and Gutter Construction

§ -1. Construction required upon notice.

The owner or owners of lot or lots fronting or abutting upon any street or highway within the Borough of Montrose shall, after notice as hereinafter provided, construct curbs or curbs and gutters along the front thereof within six (6) months from the date of the giving of such notice.

§ -2. Determination of kind and quality; grade.

Whenever the Borough Council shall by resolution determine that curbs or curbs and gutters shall be constructed along the edge of sidewalks upon any street or highway within the Borough of Montrose, it shall likewise determine by resolution the kind and quality of curbs or curbs and gutters to be constructed and direct that grade stakes be set to properly designate the location and height of the curbs or curbs and gutters.

§ -3. Service of notice; contents.

Immediately after the determination by the Borough Council that curbs or curbs and gutters shall be constructed, the Borough Secretary shall cause to be given notice, either written or printed, in the manner as hereinafter specified, to the owner or owners of the lot or lots fronting upon the street or highway where curbs or curbs and gutters are, by resolution of the Borough Council, directed to be constructed. The notice shall state the kind and quality of curbs or curbs and gutters to be constructed, the size and dimensions thereof and the time, as hereinbefore provided, within which the owner or owners are required to construct the same. Such notice shall be given by service upon the owner or owners of the lot or lots to which the notice refers where said owner or owners are residents of the borough. If said owner or owners are not residents, then said notice may be served on the agent or tenant of said owner or owners or upon the occupants of said lot or lots.

§ -4. Performance of work by borough; collection of costs.

Upon the neglect or refusal of the owner or owners of the lot or lots as aforesaid to comply with such requirements and directions in the construction of curbs or curbs and gutters within the time hereinbefore specified, the borough may cause the curbs or curbs and gutters to be constructed at the cost of such owner or owners and collect the cost thereof and an additional ten percent (10%), together with all charges and expense, from such owner or owners, and file a municipal lien therefor against such or lots as provided by law.

ARTICLE II

Sidewalk Construction and Repair; Driveways

§ -5. Construction required upon notice.

Every owner of property in the Borough of Montrose shall, within six (6) months' written notice from the Borough Council, construct a sidewalk in accordance with the provisions of this Article in front of or alongside of such property.

§ -6. Duty of owner.

The owner of any premises abutting a sidewalk in the Borough of Montrose shall, at his own cost and expense, keep and maintain such sidewalk in good condition and state of repair and shall not permit the same to fall into a state of disrepair or to become unfit or unsafe to walk upon. In the event that any such sidewalk or any part thereof becomes unsafe or hazardous to the public or unfit to walk upon, the abutting owner, at his own cost and expense, shall, with all expeditious speed, reconstruct or repair, as the facts may require, such sidewalk or curb or that part thereof which requires reconstruction or repair.

§ -7. Failure to construct or repair; collection of costs.

In the event that the abutting owner fails to construct a sidewalk after notice as provided in § -5 above, or fails to reconstruct or repair his sidewalk or curb or such part thereof as may require reconstruction or repair, as provided in this Article, the Borough Council may cause the said improvement or work to be done under the supervision of said Council or its designated agent or may award a contract therefor, and the cost thereof shall be assessed against the property of the abutting owner in accordance with the law in such case made and provided.

§ -8. Line and grade.

All new sidewalks constructed by an abutting owner shall be constructed in accordance with the line and grade established by the borough. All old and existing sidewalks reconstructed or repaired by an abutting owner shall be reconstructed or repaired in accordance with the existing line and grade, unless such line or grade is changed by the borough. It shall be the duty of the abutting owner, in all instances, to make inquiry of the borough respecting such line and grade.

§ -9. Compliance with specifications.

Every sidewalk constructed, reconstructed or repaired shall be in accordance with specifications prepared at the direction of and approved by the Borough Council, which specifications are hereby incorporated into and made a part of this Article.

§ -10. Driveways and curb cuts.

No person shall construct or cause to be constructed a driveway over any sidewalk, or cut or cause to be cut any curb on any highway, street or alley of the borough, without obtaining a permit therefor from the borough. Permits shall be issued only under the following conditions:

- A. Plans; inspection. No permit shall be issued until a plan for the proposed driveway and/or curb cut is filed with the borough and a review and inspection of the proposed construction indicates that such construction conforms to the provisions of this section.
- B. Width and location restrictions. No permit shall be issued for the establishing of any curb cuts or the cutting of any established curbs for more than a continuous length of thirty-two (32) feet for each opening. No cut shall be made, established or permitted nor shall a driveway be constructed within ten (10) feet of a corner in any direction; provided, however, that where the strict application of these restrictions would cause unnecessary hardship to the applicant, the Council may, in its discretion, permit such other driveway construction or curb cuts as would not create danger or hazard to vehicular or pedestrian traffic.
- C. Drainage. No permit shall be issued unless adequate provision is made for the drainage under the driveway of water from the street.

- D. Specifications. Every driveway constructed over a sidewalk and every curb cut made shall be in accordance with specifications prepared at the direction of and approved by the Borough Council.

ARTICLE III

Maintenance of Sidewalk Area

§ -11. Duty of owner or occupant.

The owner or occupant of any premises shall keep the contiguous sidewalks free from snow, ice, dirt, filth, weeds and other obstructions or encumbrances and in good and safe repair and shall cause such sidewalks to be cleared of snow and ice within twenty-four (24) hours after any snowfall shall have ceased or ice has formed.

§ -12. Notice of violation; performance of work by borough; costs.

- A. Any owner or occupant of a premises who has been notified by the Borough Secretary or Police Department that the contiguous sidewalks are in violation of § -11 hereof, except in regard to snow and ice, and who fails to correct the condition within ten (10) days of the sending of such notice to his last known address by mail, shall be in violation of this Article.
- B. In addition to the penalties otherwise enforceable for general violations of this Article, the borough may thereafter correct the prohibited condition and assess the cost thereof against the owner of the adjacent property. Such cost, if not paid, shall be assessable against the property as a tax thereon.
- C. In the case of snow and ice, no such ten-day notice is required, and if, within twenty-four (24) hours after the cessation of every fall of snow or the formation of any ice, the owner or occupant of any premises fails to clear such sidewalk of snow and ice, he shall be in violation of this Article. In addition, the borough may clear such sidewalks of snow and ice if they are not cleared by the owner or occupant within the said twenty-four (24) hours and assess the cost thereof against the owner of the adjacent property. Such cost, if not paid, shall be assessable against the property as a tax thereon.

§ -13. Disposition of snow.

Snow and ice removed from sidewalks, driveways and private property shall not be deposited or plowed into any public gutter, street or highway. The existence of any such deposit in or on a gutter, street or highway in front of a sidewalk, driveway or private property shall be prima facie evidence of a violation of this section by the owner, tenant or occupant thereof.

ARTICLE IV

Obstructions

§ -14. Deposit of materials on streets prohibited.

No person, firm or corporation shall cause any earth, stones, bricks, building material or other matter or substance to be collected or remain upon any street, road or highway of the Borough of Montrose so as to be unsightly or to interfere with the use of said roads, streets or highways, nor shall any person, firm or corporation place any earth or any other substance in the gutters of said roads, streets or highways so as to obstruct in any way the flow of water along such gutters.

§ -15. Obstructions prohibited; exceptions.

No person shall in any manner obstruct any street, sidewalk or public passageway in the Borough of Montrose so as to endanger any person or property or to hinder or delay public travel thereon; provided, however, that nothing herein contained shall prohibit any person from making use of any street or sidewalk in strict conformity to §§ -16 and -17 below or from the setting out of receptacles or containers of garbage, rubbish or refuse for collection by the borough collector on the day or days when such materials are normally collected.

§ -16. Temporary obstructions for loading or unloading purposes.

Any person engaged in delivering goods, wares or merchandise to any property abutting upon any sidewalk, or in removing any personal property of any nature or character whatever from such property, may, temporarily, for a total period of not more than one (1) hour, place any such goods, wares, merchandise or other personal property upon such sidewalk, as close as possible to the curb, to facilitate the loading or unloading of the same. The occupant of such property or the owner thereof where such property is not occupied shall be responsible for adhering to the requirements of this section. Any failure to conform to such requirements shall constitute a violation of this Article.

§ -17. Building materials storage permit; conditions.

- A. Under certain circumstances where, in the opinion of the Borough Council, there shall be no other practicable means for the storage thereof, a permit may be granted by such Council for the storage of building materials upon a limited portion of the public highway or sidewalk abutting upon the property where such materials are to be used. Such permit shall be issued for a fee of twenty-five dollars (\$25.), payable to the Borough Secretary for the use of the borough, to the owner or occupant of such property where such materials are to be used.
- B. Such permit shall be issued upon the following conditions, which shall be strictly adhered to by the holder thereof:
 - (1) Such permit shall be valid for a limited time, not in excess of thirty (30) days, which shall be determined by the Borough Council on the basis of the scope of the work being undertaken and the inconvenience to the public involved, and such time shall be stated upon such permit.
 - (2) Such building materials shall occupy no more than one-half ($\frac{1}{2}$) the width of the sidewalk or one-third ($\frac{1}{3}$) the width of the public highway.
 - (3) Such building materials shall be placed so as not to interfere with drainage of the sidewalk, with access to any fire hydrant or with the flow of waters along the gutters.
 - (4) Such building materials shall be arranged in a regular, neat, compact form so as to occupy a minimum of space and to present the least risk of falling.
 - (5) The holder of such permit shall place lights and guards in the vicinity of or around such materials so as to prevent injury to persons and property.
 - (6) The holder of such permit shall file with the Borough Secretary a bond, in such sum as shall be determined by the Borough Council, to indemnify the borough against all damages, losses, costs or expenses that are or may be occasioned by reason of the placing or storage of such materials upon such sidewalk or public highway.

- (7) All such materials shall be removed from the sidewalk or highway and such sidewalk or highway shall be restored to the condition in which it was immediately prior to such storage on or before the date of expiration of such permit. If the holder of such permit shall fail to comply with the provisions of this condition, such material may be removed by order of the Borough Council and shall be placed upon the property where such material is to be used, outside the limits of the sidewalk, and in such case the expense of such removal and any additional charge authorized by law shall be collected by the borough from the holder of such permit; provided, however, that nothing herein contained shall be construed to interfere with the grading of sidewalks or streets or the placing of material for such purpose under the direction of the borough official in charge thereof.

§ -18. Protection of sidewalk during building construction.

Every person erecting or repairing any building shall keep the sidewalk adjacent thereto clear and open, except as may be authorized under a permit provided for in § -17 of this Article. Whenever necessary for the protection of the users of such sidewalk during the course of such building construction or repair, such person shall erect a suitable shed or other protective covering over such sidewalk.

§ -19. Storage of goods on sidewalk prohibited.

No person, firm or corporation shall use any part of a sidewalk or highway either for any business purpose or for the storage, display, rental or sale of any goods, wares, merchandise or personal property.

§ -20. Sidewalk obstructions generally.

No person shall hereafter erect or place any step, platform, passageway, enclosure, bulk, bay or jut window, porch or jamb or any similar obstruction in or upon any sidewalk, provided that nothing contained herein shall prohibit the construction or maintenance of awnings under the conditions set forth hereinafter, or the planting of trees between the curb and the paved portion of the sidewalk where such plantings are specifically authorized by ordinance, or the erection of steps extending not more than three (3) feet from the property or building line of such street, leading up to the first floor of any building, or the construction of cellarways as provided in § -21 of this Article.

§ -21. Maintenance of cellarway openings.

No opening, railing or passageway into any cellar shall be permitted to extend more than three (3) feet from the building line to any sidewalk in the borough. Every cellarway opening onto any sidewalk shall be securely covered and protected with iron doors, which shall be constructed so as to close flush with the sidewalk. All such cellar doors shall at all times be kept in good repair and shall be closed at all times except when in actual use for the removal or receipt of goods, wares or merchandise, and when opened every cellar door shall be properly guarded for the protection of persons using such sidewalk.

§ -22. Awnings.

No person shall install, erect or maintain any awning, any portion of which shall overhang any sidewalk in the borough, unless the lowest point of such awning shall be not less than seven (7) feet above the level of such sidewalk.

§ -23. Overhanging vegetation.

Trees and hedges overhanging sidewalks and highways shall be trimmed to provide clear passage of not less than twelve (12) feet above the sidewalk or highway.

§ -24. Notice to remove obstruction; work by borough; collection of costs.

Any construction or installation hereafter made or maintained in violation of any of the provisions of this Article shall constitute an unlawful obstruction to the convenient use of the sidewalk or highway. Within ten (10) days after notice to that effect from the Borough Council, the owner of any property abutting such sidewalk or highway shall remove such obstruction either by removal of the construction or installation constituting such obstruction or by making such alterations as may be necessary to conform strictly to the applicable requirements of this Article. In case the owner of such property shall neglect, refuse or fail to remove such obstruction within such time limit, the Borough Council may cause the same to be done at the expense of the borough, and the borough shall collect such expense and any additional penalty authorized by law from the owner of such property.

ARTICLE V

Fires

§ -25. Fires in public right-of-way prohibited.

No person, firm, partnership or corporation shall burn leaves, rubbish or any other combustible material upon or in any street, highway, gutter, sidewalk, drainage ditch or any other part of a public right-of-way.

ARTICLE VI

Excavations

§ -26. Appointment of Road Inspectors; compensation.

The borough shall appoint one or more Road Inspectors for the Borough of Montrose, who shall be paid reasonable compensation as determined by the borough, which shall in turn collect such compensation from the firm or person making the excavation, hereinafter called the "excavator," where the Inspector(s) shall be working.

§ -27. Notice of excavation; inspection.

When any excavation is made into the roads, streets, highways and rights-of-way of the Borough of Montrose, the excavator must give said borough written notice prior to or within no more than twelve (12) hours after said excavation, stating the location, purpose, date and time of said excavation. The Road Inspector shall inspect said excavation for compliance with this Article.

§ -28. Back-filling of excavation.

- A. It shall be unlawful for any corporation, firm or person to fill any excavation in the roads, streets, highways and rights-of-way of the borough unless said Road Inspector shall be present.

- B. All excavations in the roads, streets, highways and rights-of-way of said borough must be filled with material designated "2A modified" or the equivalent, as approved by the Road Inspector, which must be pneumatically tamped every six (6) inches while being replaced.
- C. It shall be unlawful to use any other material than "2A modified" or its approved equivalent to refill excavations in the roads, streets, highways and rights-of-way of said borough.

§ -29. Restoration of surface.

In the case of excavations in the roads, streets, highways and rights-of-way of the borough, the corporation, firm or person making such excavation shall ensure that the original surface will be initially restored within five (5) days, unless an extension of this time limit is granted in writing by the Road Inspector, and shall pay all expense of said restoration. In the event the excavator fails to restore the excavation and surface within the aforesaid time, the borough may elect to restore said surface, and the corporation, firm or person making the excavation shall reimburse the borough for the cost of said restoration.

§ -30. Period of liability for repair of surface.

Where any corporation, firm or person shall make said excavation and the same shall be replaced as aforesaid and shall later subside, said corporation, firm or person shall be liable for the cost of repair of the road surface for a period of two (2) years after said initial restoration.

ARTICLE VII

Violations

§ -31. Violations and penalties.

Any person who shall be convicted of violating or failing to comply with the provisions of this ordinance shall be deemed guilty of a summary offense, punishable by a fine not exceeding three hundred dollars (\$300.) or imprisonment for not more than thirty (30) days, or both. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of a violation may be punished as provided above for each separate offense.

ARTICLE VIII

Miscellaneous Provisions

§ -32. Severability.

The provisions of this ordinance are declared to be severable and if any section, subsection, sentence, clause or part thereof is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

§ -33. Repealer.

All ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed to the extent of such conflict or inconsistency.

§ -34. When effective.

This ordinance shall take effect as provided by law upon final adoption.

Montrose, B.

Streets and Sidewalks - 12

ENACTED AND ORDAINED this _____ day of _____, 1978.

BOROUGH OF MONTROSE

BY: _____
President

ATTEST: _____
Secretary

APPROVED this _____ day of _____, 1978

Mayor