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Pinckney, MI Code of Ordinances

SIDEWALKS

§ 92.55 CONSTRUCTION AND REPAIR; COMPLIANCE REQUIRED.

The sidewalks of all public streets and alleys in the village constructed or repaired after the effective date of this subchapter shall, unless otherwise ordered by Council, be constructed or repaired in the manner provided in this subchapter.

(Ord. 33, passed 7-10-2000)

§ 92.56 LINE AND GRADES.

(A) All sidewalks constructed or repaired as set forth in this subchapter shall conform to the established grade of the street, unless otherwise ordered by Council. The line and grade for all walks constructed or repaired as set forth in this subchapter shall be given by the Village President and/or Manager or his or her representative, and all of the construction work shall be under the President and/or Manager's supervision and to his or her satisfaction.

(B) All sidewalks shall be constructed or repaired to conform with the plans and standard specifications of the village, which are on file in the office of the Village Clerk.

(Ord. 33, passed 7-10-2000)

§ 92.57 PERMITS TO CONSTRUCT OR REPAIR; FEE.

(A) Every person who constructs a sidewalk or repairs and/or replaces costing sidewalks in the village shall, for each job, first obtain from the Village Clerk, a permit to proceed with the proposed work. The permit is to be issued upon receipt of a completed permit application and submission of the permit fee. The fee shall be established by Council resolution. Every permittee shall comply with all requirements as to grade, width, specifications and all other provisions of this subchapter relative to the laying, constructing and repairing of sidewalks.

(B) The Council may revoke a permit issued under this subchapter for incompetency or failure to comply with this subchapter or the rules, regulations, plans and standard specifications of the village for the construction or repair of sidewalks.

(C) The Village President and/or Manager may cause work to be stopped under a permit granted for the construction or repair of a sidewalk, for any of the causes enumerated in this section, until the next regular meeting of Council.

(Ord. 33, passed 7-10-2000)

§ 92.58 NECESSITY OF CONSTRUCTION OR REPAIR.

The Council shall determine the necessity of construction, repair or replacement of public sidewalks to protect the public health, safety and welfare. The construction of a new sidewalk is required when a vacant parcel is developed, as well as when there is a building addition or usage change requiring site plan approval. The Council may waive the new sidewalk requirement for good cause shown, provided the landowners sign a recordable instrument guaranteeing construction and payment therefore at a future time as directed by the village.

(Ord. 33, passed 7-10-2000)

§ 92.59 PARTIAL PAYMENT OF REPAIR BY VILLAGE.

(A) The village may authorize payment, from an appropriate budgetary account, of an amount as determined by resolution of Council, from time to time, toward the cost of existing sidewalk repair and/or replacement, upon receipt from the property owner involved of a request for the payment. The request for payment by the village shall include a statement from the Village President and/or Manager approving the request and the amount thereof. No payment by the village shall be authorized unless:

(1) A sidewalk construction permit was obtained prior to making the repair and/or payment therefore is recommended by the Village President and/or Manger; or

(2) The Village Manager caused the work to be done pursuant to § 92.60(B).

(B) This section shall not apply to the construction of new sidewalks.

(C) Pursuant to division (A) above, the village may elect to pay an amount, to be established by Council resolution of the replacement cost through the Village's Sidewalk Replacement Program, toward the cost of sidewalk repair and/or replacement from the appropriate, budgetary account upon receipt from the property owner involved of a request for each payment and upon compliance with the provisions of division (A) above.

(Ord. 33, passed 7-10-2000)

§ 92.60 RESPONSIBILITY FOR CONSTRUCTION COSTS; METHOD OF PAYMENT.

(A) The village may elect to pay a percentage established by Council resolution of the construction cost for sidewalk replacement in the right-of-way abutting private property, in addition to the cost in public areas, intersections and the like. For property owners performing their own sidewalk replacement, the village may choose, based on appropriate documentation, to reimburse the property owner at a rate to be established by Council resolution.

(B) Property owners shall pay the costs of the sidewalk work in full at the time statements and/or invoices are mailed by the village to the property owners. In the event that the property owners cannot pay or wish to pay in installment payments, installment payments of not less than \$300 per year shall be paid by each property owner on or before February 28, the first installment, however, being due and owing within 30 days of the date of the statement and/or invoice. Statements and/or invoices for subsequent installment payments shall be mailed by the

village on or before January of each of the successive years until the time as all payments are made. Interest shall be charged at the rate of 1/2% per month (or any portion thereof) on the unpaid balance, beginning 30 days after the first installment becomes due and owing, if the property owner chooses the installment payment method, any annual installment payment which is not made on or before April 1 of the year in which it is due, the entire unpaid balance, with interest, shall be certified as delinquent and placed on the tax roll of the village for that year. The certification shall make the entire amount due and owing by the property owner a lien on the real estate and the amount shall be collected in a method as set forth and provided for in the Village Charter.

(Ord. 33, passed 7-10-2000)

§ 92.61 NOTICE TO REPAIR OR CONSTRUCT; ACTION BY VILLAGE.

(A) Whenever Council, by resolution, declare the necessity for the construction or repair of the sidewalk in and on any street in front of or adjacent to private property, the resolution shall state the names of the owners, their addresses and the location of the construction or repair. The Village Clerk shall cause to be prepared two notices. The first notice shall be a notice sent to the property owners affected, and the second notice shall be a notice for public hearing, which notice will notify the public at-large of the intention of the village to make the sidewalk improvements and to charge the cost thereof against the abutting property owner. The form of the notice sent to affected owners shall set forth the owners assessed, the estimated amount of sidewalk to be repaired or replaced, any new sidewalk to be installed and an estimated amount for the work. The notice shall also state that the property owner may cause the work to be done at his or her expense in conformity with the plans and specifications on file in the office of the Village Clerk, provided that this work is completed by a date to be determined by Council after the date of the public hearing. The notice shall also include the public hearing notice. The form of the public hearing notice shall state the time and place at which the Council shall meet for the purpose of reviewing the list of sidewalks so affected and hearing any persons so assessed who consider himself or herself aggrieved thereby. The public notice shall not contain the list of sidewalks so affected, but shall make reference that the list may be reviewed at the Village Clerk's office prior to the hearing. The notice to property owners shall be sent at least ten days prior to the date of the hearing by Council, and the Clerk shall notify the owners by first class mail, so far as the same are known and as shown on the tax rolls of the village. The Village Clerk shall cause the public notice to be published, once in a newspaper of general circulation in the village at least ten days before the public hearing.

(B) At the time and place designated in the notice for public hearing, the Council shall meet and hear all persons interested or affected in the construction or repair of sidewalks within the village, and shall consider all objections either given orally at the public hearing or filed with the Village Clerk. At the time and place, the Council shall review the resolution of necessity and the list of owners affected. The Council may alter, change or correct the same if necessary or may refer the list set forth in the resolution back to the Village President and/or Manager for revision. However, in altering, changing or conflicting the list set forth in the resolution, the Council shall not add any other sidewalk construction or repair not included in the original resolution, except as is necessitated during on-site construction or upon the approval of the affected property owner. Further, the Council may adjourn and continue the hearing from time to time. When the list set forth in the resolution has been set and confirmed by the Council, the Council shall, by resolution, approve the resolution of necessity and authorize the Village President and/or

Manager to commence work on the construction or repair of sidewalks so affected. The Village Manager shall authorize additional sidewalk repair and/or replacement when, during construction, it is found that the repairs and/or replacement is necessary due to on-site inspection, or at the request of the property owner to enlarge the affected area for repair and/or replacement. A change made under these circumstances shall not require further Council approval or a corrected resolution.

(C) If the property owner fails to cause the work to be done within the time allotted by the Council after the date of the public hearing, then the Village President and/or Manager shall proceed to have the work done and shall bill the property owner. The method of payment to be made by the property owner shall conform to § 92.60.

(Ord. 33, passed 7-10-2000)

§ 92.62 REMOVAL OF SNOW, ICE, DEBRIS OR DIRT.

(A) No person owning or occupying any lot or premises abutting upon any street in the village shall permit sidewalks in front of the lot or premises to become obstructed by snow, ice, debris or dirt so as to inconvenience public traffic.

(B) No person shall in any event, permit any snow, ice, debris or dirt to remain on any sidewalk in front of a lot or premises owned or occupied by him or her in the village, longer than 24 hours after the same has fallen or accumulated.

(C) If the sidewalk in front of any lot or premises in the village are not cleared of snow, ice, debris or dirt in the manner and within the time provided in divisions (A) and (B) above, then the village shall cause the sidewalks to be cleared at the expense of the property owner. After cleaning by the village, the actual cost thereof shall be reported to the Village Clerk. The Village Clerk shall keep a record specifying the description of the premises cleaned as aforesaid and the cost to the making of the annual assessments roll by the Village Treasurer. The Council may, by resolution, direct the Treasurer to levy on the next general assessment roll the amount which describes the property and premises abutting upon sidewalks cleaned by the village and shall state separately the expense of cleaning chargeable to each description on, which amount shall be assessed against the property in the resolution. The amounts of the special tax for cleaning sidewalks herein provided for shall be collected by the Village Treasurer at the same time and in the same manner as general village, state and county taxes and, upon nonpayment thereto, shall be reported to the County Treasurer in the manner provided by law.

(D) No person shall place, throw, deposit or dump any snow, ice, debris or dirt in or on any public right-of-way in any manner which impedes or interferes with the free flow of traffic, unless consent to do so is based upon necessity and permission is granted by the Village of Pinckney.

(Ord. 33, passed 7-10-2000) Penalty, see § 92.99

§ 92.63 BUSINESS DISTRICT SNOW, ICE, DEBRIS, DIRT AND ENCROACHMENT REMOVAL.

(A) The ***BUSINESS DISTRICT***, as used in this section, is defined as that area zoned Central Business District, Secondary Business District and Residential Office Business District, as designated on the Village of Pinckney's zoning map. Every person having the care, either as owner or occupant of any business premises or any unoccupied premises bordered by a paved sidewalk in the Business District shall promptly remove all snow, ice, debris or dirt from the sidewalk within 12 hours after same has fallen, and keep the same free from obstruction, dirt, encroachments, encumbrances, filth and other nuisances.

(B) If the sidewalks in front of any business, as defined in the Business District, are not cleared of snow, ice, debris or dirt in the manner and within the time provided in division (A) above, then the village shall cause the sidewalks to be cleared at the expense of the business owner. After the cleaning by the village, the actual cost thereof shall be reported to the Village Clerk. The Village Clerk shall keep a record specifying the description of the premises cleaned as aforesaid and the cost to the making of the annual assessments roll by the Village Treasurer. The Council may, by resolution, direct the Treasurer to levy on the next general assessment roll the amount which describe the property and premises abutting upon sidewalks cleaned by the village and shall state separately the expense of cleaning chargeable to each description on, which amount shall be assessed against the property in the resolution. The amounts of the special assessment for cleaning sidewalks herein provided for shall be collected by the Village Treasurer at the same time and in the same manner as general village, state and county taxes and, upon nonpayment thereto shall be reported to the County Treasurer in the manner provided by law.

(Ord. 33, passed 7-10-2000; Ord. 92, passed 10-26-2009)

§ 92.64 ENCROACHMENTS.

(A) *Trees, bushes and shrubs.*

(1) All trees, bushes and shrubs in the street right-of-way of the Village of Pinckney shall be trimmed or pruned by the abutting property owner so that no branch thereof grows or hangs lower than eight and one-half feet above the level of the sidewalk, and shall also be pruned so that they shall not encroach onto the sidewalk or street.

(2) All trees, bushes and shrubs on private property, the branches of which extend over the line of a street, or sidewalk shall be trimmed and pruned so that no branch grows or hangs over the line of the street or sidewalk lower than eight and one-half feet above the level of the sidewalk and shall also be pruned so that they shall not encroach onto the street or sidewalk.

(3) For any tree, bush or shrub in the street right-of-way that has not been trimmed or pruned as provided in division (A)(1) above, the village shall cause those trees, bushes or shrubs to be trimmed or removed at the expense of the village. For any tree, bush or shrub on private property that has not been trimmed or pruned as provided in division (A)(2) above, the village shall cause those trees, bushes or shrubs to be trimmed or removed at the expense of the property owner. After the trimming or removal by the village, the actual cost thereof shall be reported to the Village Clerk. The Village Clerk shall keep a record specifying the description of the premises and the trees, bushes or shrubs trimmed or removed, and the cost, to the making of the annual assessment roll by the Village Treasurer. The Council may, by resolution, direct the Treasurer to levy on the next general assessment roll the amount which describes the property and trees, bushes or shrubs trimmed or removed by the village and shall state separately the expense chargeable to each description, which amount shall be assessed against the property in

the resolution. The amounts of the special assessment for trimming or removal of trees, bushes or shrubs herein provided for shall be collected by the Village Treasurer at the same time and in the same manner as general village, state and county taxes and, upon nonpayment thereto, shall be reported to the County Treasurer in the manner provided by law.

(B) *Outdoor cafés.*

(1) *Definitions.* For the purposes of this subchapter, the term **OUTDOOR CAFÉ** shall mean an outdoor food service area operated adjacent to and in conjunction with a lawfully established restaurant or other establishment that sells food for immediate consumption on the premises. This definition shall include outdoor cafes on private property, a public sidewalk and/or a public right-of-way.

(2) *Permit.* The Zoning Administrator may issue a revocable outdoor café permit for an outdoor café, operated in connection with a lawfully established restaurant or other establishment that sells food for immediate consumption on the premises. The permits shall be issued subject to annual review and the following conditions:

(a) The outdoor café shall fully comply with the requirements of the Livingston County Department of Public Health, Michigan Liquor Control Commission and all other applicable state and local laws. For an outdoor café adjacent to a state trunkline (M-36), the applicant must first obtain a permit for the use from the Michigan Department of Transportation and shall submit a copy of the permit to the Zoning Administrator.

(b) The outdoor café shall not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity.

(c) The outdoor café shall be permitted to operate only during the normal operating hours of the associated restaurant.

(d) No furnishings may be attached by any means to any public area or public property.

(e) All tables, chairs and other equipment shall be constructed and set up in such a manner as to be easily removable, durable, easily cleaned, in sound condition and good repair.

(f) No food may be stored, cooked or otherwise prepared in the outdoor café area.

(g) No soiled food service equipment, utensils or tableware may be kept in the outdoor café area. All clean food service equipment, utensils and tableware must be covered at all times. Trash receptacles shall also be covered at all times and leak proof.

(h) The gross area occupied by the outdoor café shall be included in the required parking calculation under the village's Zoning Ordinance.

(i) No music, intercom or other noise shall be permitted that impacts adjacent properties.

(j) Umbrellas and similar temporary, easily removable shading devices are permitted provided the lowest point of the umbrella or covering is not lower than six feet, eight inches from the ground.

(k) In no event shall the operation of the outdoor café, including the placement of equipment or furnishings:

1. Interfere with the passage of pedestrian or vehicle traffic, or reduce the open portion of the public sidewalk to less than five feet, clear of all obstructions, measured from the edge of the sidewalk closest to the curb, lamppost or parking meter. In addition, no seating or other equipment shall be closer than five feet to any street tree or public sign;

2. Interfere with the use of or access to public or private property, including any building, parking space, curb cut, bus stop, crosswalk, mailbox, fire hydrant, fire escape, fire door or other means of ingress or egress;

3. Obstruct the clear view of any traffic signal, regulatory sign or street sign;

4. Interfere with street cleaning or snow removal activities; and

5. Cause damage to any street, sidewalk, tree, public bench, landscaping or other object lawfully located therein.

(l) The outdoor café may be located only along the length of the associated restaurant building. Under no circumstances shall the area of the outdoor café extend beyond the exterior building facade of the associated restaurant, or in any way encroach upon adjacent private or public property, except as provided for herein.

(m) The permit holder shall provide the village, in a form acceptable to the Village Attorney:

1. An agreement to indemnify, defend and hold harmless the village for any and all claims for liability or damages to persons or property resulting from the operation of the outdoor café; and

2. A certificate of general liability insurance naming the Village of Pinckney as the insured party. The amount of required general liability coverage shall not be less than \$1,000,000 for the injury or death of a person in any one incident and \$50,000 for damage to property in any one incident. Evidence of the required insurance shall consist of certification executed by an authorized agent of the insurance company indicating the amount and type of insurance, the location of coverage and shall certify that the insurance shall not be canceled unless notice of the intent to cancel is filed with the village at least ten days prior to the cancellation. The insurer shall have no less than a B++ rating by the most recent AM Best Insurance Rating Guide.

(n) The permit holder shall be responsible for the maintenance and upkeep of the public or private area used for the outdoor café and the replacement of damaged public property. Maintenance shall include daily cleaning of the area and repair or replacement of damaged pavement.

(o) The plot plan submitted and approved as part of the outdoor café permit shall show all of the information required in § 152.389(B), as well as the following:

1. Existing facade of the associated building;

2. All points of ingress and egress;

3. Proposed location of tables, chairs, serving equipment, planters, borders, awnings, umbrellas and other facilities to be included in the seating area; and

4. Location of existing public improvements including fire hydrants, street signs, street lights, traffic signals, mail boxes, trees and tree grates, parking meters, planting boxes, planting areas, fire escapes or similar obstructions.

(p) The person requesting issuance of the outdoor café permit for an outdoor café shall pay the permit fee as established by resolution adopted by Village Council.

(3) *Revocation.* A outdoor café permit for an outdoor café may be revoked by the Zoning Administrator upon a finding that the outdoor café does not meet the standards of this section, any other provisions of this code or other applicable law, or that the space is needed for other purposes, or as provided for the revocation of permits under § 152.023. For an outdoor café adjacent to a state trunkline (M-36), the outdoor café permit shall be automatically revoked upon the revocation or expiration of the permit for the use from the Michigan Department of Transportation.

(4) *Appeal.* Persons who are refused a permit for an outdoor café, have their permit revoked or wish to protest the issuance of a permit that has been approved, may appeal that determination before the Zoning Board of Appeals, which shall review the appeal under the same standards applied in reviewing appeals of decisions of the Zoning Administrator under the Village Zoning Ordinance. Requests for a hearing or an appeal must be made within 30 calendar days of the decision in question.

(Ord. 33, passed 7-10-2000; Ord. 77, passed 2-12-2007; Ord. 92, passed 10-26-2009)

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm or corporation who violates §§ 92.01*et seq.* is responsible for a misdemeanor and subject to 90 days in jail, a fine of up to \$500 or both. Each day that a violation continues shall constitute a separate offense subject to the penalties and provisions herein. In addition, the village shall also be entitled to file an action for immediate injunctive relief enjoining the activity or act giving rise to the violation of the ordinance and also be entitled to recover all costs incurred by the village in seeking the relief, including its actual attorney fees.

(C) Any person, firm or corporation who violates any provision of §§ 92.25*et seq.* is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in § 131.57 plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein.

(D) Any person, firm or corporation who violates any provision of §§ 92.55*et seq.* is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in § 131.57, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines as provided by Chapter 131 herein.

(Ord. 33, passed 7-10-2000; Ord. 56, passed 11-27-2000; Ord. 57, passed 9-9-2002)