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CHAPTER THREE

PUBLIC PLACES AND PROPERTY

ARTICLE 1 - Construction and Repair

3.0101 Supervision

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

3.0102 Construction and Repair - Permits

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

3.0103 Bond

Each applicant shall file a bond in an amount determined by the City Council of New England, with surety to be approved by the governing body conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same.

3.0104 Specifications

All construction, maintenance, and repair herein shall be made in conformity with specifications laid down or approved by the governing body. Final approval at completion shall be by the governing body or representative.

3.0105 Duty of Owner to Maintain

It shall be the duty of the owner of any property along which a sidewalk has been constructed to maintain the same in good repair and safe condition. Should any such owner fail so to maintain such sidewalks, the City Engineer or Street Superintendent shall direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should the owner fail, within a reasonable time, to follow the directions of the City Engineer or Street Superintendent, the City Engineer or Street Superintendent shall report the facts to the governing body, which may then proceed as provided in Chapter 40-29 of the North Dakota Century Code.

3.0106 Application for Permit

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

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

3.0107 Standards for Issuance of Permit

The City Engineer or Street Superintendent shall issue a permit hereunder when it is determined:

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

3.0108 Sidewalks Built to Grade Specifications

All sidewalks shall be constructed in accordance with the elevations and grade therefore to be furnished by the City Engineer and shall be constructed under the direction and supervision of the City Engineer or under the direction and supervision of the Street Superintendent. All new and replacement sidewalks shall meet the following requirements:

1. All sidewalks shall be constructed of concrete.
2. All sidewalks in residential areas shall be constructed not less than five (5) feet in width, or to match existing width, and shall have a minimum slope one-fourth (1/4) inch per foot from the inside edge toward the street.
3. All sidewalks shall be of concrete and of at least four (4) inches in thickness.
4. All sidewalks shall be laid out as follows:
 - a. In locations where the right-of-way is sixty (60) feet or less the sidewalks shall be constructed on the property line.
 - b. In locations where the right-of-way is greater than sixty (60) feet the sidewalk shall be constructed eighteen (18) inches out from the property line.
 - c. In no case in the residential district shall the sidewalk be constructed adjacent to the curb unless right-of-way and topographic features require it.
 - d. Notwithstanding any other provision herein all sidewalks shall be set out so that they are in conformity with existing sidewalks to which they may attach.
5. All sidewalks in the commercial district shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section; provided however, in areas where commercial development is not complete the entire sidewalk need not be constructed, a section six (6) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundations.

3.0109 Materials and Manner of Construction

The kind and quality of material used, and the manner in which driveways, curb and gutter, relaying of block walks, and paving repairs shall be constructed, shall be determined by the City Engineer.

3.0110 City Contractor

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

All sidewalks, driveways, curb and gutter and alley returns lying between the property line and the abutting street hereafter constructed within the City must conform to this Chapter, and the specifications filed with the City Engineer and approved by the governing body must specify the details with respect thereto. When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this state, the contractor to whom any such contract shall be awarded shall be required, before such contract is entered into, to give in addition to the contract bond required by the laws of the state of North Dakota, an additional bond in an amount to be determined by the governing body, running to the City, conditioned that said contractor shall satisfactorily comply with the specifications for construction.

ARTICLE 2 - Use and Care of Streets, Sidewalks, and Public Places

3.0201 Obstructions - Penalty

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

1. Business owners in the downtown commercial district (being defined as the west side of Mackenzie Ave through the east side of 1st Ave West and from 4th Street through 9th Street) may place a display, announcement signs, or bench for seating abutting the outside wall of the business so as to not block the sidewalk.

Any person violating the provisions of this Section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

3.0202 Destruction of City Property - Prohibited - Penalty

It shall be unlawful for any firm, person, or corporation to willfully and without just cause or excuse, to injure, deface, or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this Section shall be guilty of an offense and be fined not less than twenty-five dollars (\$25), nor more than one thousand dollars (\$1,000) or be imprisoned not to exceed thirty (30) days or by both such fine and imprisonment.

3.0203 Encroachments

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

3.0204 Openings

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

3.0205 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley, or other public way without having first secured permissions from the City governing body. Any person or company which maintains poles and wires in the streets, alleys, or other public places, shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the City Engineer or Street Superintendent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3.0206 Littering - Prohibited

No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any garbage, glass, bottles, boxes, or rubbish of any kind upon any street or alley in the City. Any person violating the provisions of this Section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

3.0207 Burning

It shall be unlawful for any person, firm or corporation to burn any leaves, paper, rubbish, or other substances upon any of the public streets, sidewalks, or alleys in the City. Any person violating the provisions of this Section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than five hundred (\$500).

3.0208 Distributing Hand Bills, Etc.

The scattering, throwing, or placing of bills, posters, advertising matter, hand bills, and other similar items on private premises, sidewalks, streets, or other public places in the City must be done in such a manner so as to prevent the items from being blown about these premises, sidewalks, streets, or other public places. Any person violating the provisions of this Section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

3.0209 Weight Limits and Truck Routes

1. Weight limits:

Except as otherwise provided in this article or as provided by law, a motor vehicle, truck tractor, trailer, semi-trailer, or combination thereof, may not be operated upon a city street if such vehicle or combination has:

- A An axle that carries a load heavier than twelve thousand (12,000) pounds;
- B A tandem axle weight in excess of thirty-six thousand (36,000) pounds; or
- C An overall gross weight in excess of forty-eight thousand (48,000) pounds.

2. Prohibited vehicles:

It shall be unlawful for any person to operate or cause to be operated, upon a city street, any vehicle which has lugs, studs, cleats, ridges, beads, or any other protuberance of metal which project more than one-fourth inch beyond the tread or traction surface of such vehicle's tires or tracks, unless bands, wooden blocks, skids, or other devices are provided which are sufficient to protect the street surface from damage by reason thereof.

3. Exemptions:

The limitation provided in Subsection 3.0209(1) does not apply to a vehicle or combination of vehicles operated by or on behalf of the city, a school district, or any public utility, or which is used in or incidental to the construction, operation, or maintenance of their public works or facilities.

4. Truck Routes:

It shall be unlawful for any person to operate a motor vehicle, truck tractor, trailer, semitrailer, or combination thereof, upon a street or roadway within the city in excess of the limits set forth in Subsection 3.0209(1) except upon designated truck routes.

A. Truck Routes (in either direction) are designated as:

- (1). State Highway 22 via Elevator Road to Main Street
- (2). Main Street via Elevator Road to County Road 60

5. Departure from designated truck routes:
The operator of a motor vehicle, restricted to designated truck routes pursuant to 3.0209(1) may depart from such truck routes when it is necessary to reach a truck terminal, private storage, or to load or unload merchandise at locations situated off designated truck routes. The operator of such vehicle shall not leave a designated truck route until a turnoff point is reached leading to the ultimate destination of the vehicle by the shortest practical route which is consistent with the reasonable operation of the vehicle.
6. Penalty:
Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars (\$100.00). Each violation shall constitute a separate offense.

3.0210 Removal of Snow and Ice from Sidewalk – Downtown Commercial District

It shall be the duty of each business owner or occupant of each downtown commercially zoned lot in the City, whether developed or not, to remove from the sidewalk in front of or along the same, any ice or snow which forms, accumulates, or obstructs such sidewalk, within twenty-four (24) hours after the ice forms or the snowfall ceases.

A violation of this Section shall be an infraction punishable by a fine of twenty-five dollars (\$25) and continuous with respect to time. Each day the violation continues is a separate offense.

3.0211 Removal of Snow and Ice from Sidewalk – Residential District

It shall be the duty of the owner or occupant of each residential lot in the City to remove from adjacent sidewalks any ice or snow which forms, accumulates, or obstructs such sidewalk, within twenty-four (24) hours after the ice forms or the snowfall ceases.

Snow or ice removal from residential lots where sidewalks abut the curb and gutter may not always be possible due to placement of snow or ice by the city plows.

Unless a waiver has been issued in writing by the city, a property owner or a contractor hired by a property owner to remove snow from private property shall not place the snow on a sidewalk, driveway apron, on the paved portion of a street or alley, or within five feet of a fire hydrant. Snow may be placed in the unpaved portion of the berm or boulevard within the public right-of-way. A violation of this Subsection shall be an infraction and is subject to a fine of twenty-five dollars (\$25).

3.0212 Excavations - Permit

It shall be unlawful for any person, firm, or corporation, except public utilities which have received a franchise from the City, to tunnel under or to make any excavation in any street, alley,

or other public place in the City without having obtained a permit as is herein required and complying with the provisions of this Article and the terms of any such permit.

3.0213 Guarding or Excavations and Openings

It shall be unlawful for any person within the City limits to leave or keep open, uncovered, or unguarded any cellar door, pit, grating, vault, or other subterranean passage opening from, into, or upon any street, alley, or sidewalk, or upon any private property if not suitably guarded.

3.0214 Application for Excavation Permits

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

3.0215 Fees for Excavation Permits

The fee for various excavation permits shall be set by resolution of City Council.

3.0216 Bond - Excavations

No excavation permit shall be issued unless and until the applicant therefore has filed with the City Auditor a bond in the sum of ten thousand dollars (\$10,000), conditioned to indemnify the City for any loss, liability, or damage that may result, or accrue from, or because of the making, existence, or manner of guarding or constructing any such tunnel or excavations. Such bond shall have as surety a corporation licensed to do business in the state as a surety company.

3.0217 Deposit - Excavations

No excavation permit shall be issued unless and until the applicant therefore has deposited with the City Auditor a cash deposit or bond in an amount to be determined by the City to insure the proper restoration of the area involved. Any balance will be returned to the applicant without interest after the excavation area is restored.

3.0218 Making Excavations - Notice

It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground, and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

No injury shall be done to any pipes, cables, or conduits in the making of such excavations or tunnels, and notice shall be given to the persons maintaining any such pipes, cables, or conduits or to the City department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables, or conduits shall be disturbed. Notice shall be given as required by Chapter 49-23 of the North Dakota Century Code.

3.0219 Restoration of Excavations

Any person, firm, or corporation making any excavation or tunnel in or under any public street, alley, or other public place in the City shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant, in compliance with the ordinances of the City and under the supervision of the Street Superintendent or City Engineer (see 3.0110)

The City of New England requires that all pavement breaks be tested for proper compaction by a third-party inspector (at their expense), and refilled with concrete (at market price) and inspected and signed off by the Street Superintendent or City Engineer.

3.0220 Supervision of Excavation Work

The Street Superintendent or City Engineer shall from time to time inspect, or cause to be inspected, all excavations and tunnels being made in or under any public street, alley, or other public place in the City to see to the enforcement of the provisions of this Article. Notice shall be given to the Street Superintendent or City Engineer at least ten (10) hours before the work of refilling any such tunnel or excavation is begun.

3.0221 City Buildings, Equipment, and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment, and vehicles, except as provided under state law.

ARTICLE 3. Unclaimed and Abandoned Property

3.0301 Unclaimed and Abandoned Property - Defined

If, after attempting to contact the owner (if known), personal property left upon the streets, alleys, or other public ways in the City shall be deemed to be unclaimed or abandoned within the meaning of this Article when the same is permitted to remain in any one place upon said streets, alleys, or other public ways for a period of ten (10) days or more.

3.0302 Seizure of Unclaimed or Abandoned Property

Whenever any unclaimed or abandoned personal property is found upon the streets, alleys, or other public ways of the City, the same shall be seized and possession thereof taken by any law enforcement officer, Street Superintendent, or other officer of the City.

3.0303 Holding of Personal Property - Notice of Sale

Such personal property as aforesaid shall be held by the City for a period of not less than sixty (60) days after its seizure as provided herein, and after the expiration of said sixty (60) days the City Auditor shall cause notice to be published in the official newspaper of said City, said notice specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said City, and a further notice that said property will be sold at public auction, to the highest bidder for cash, not less than ten (10) days from and after the date of the publication of such notice and the hour, date, and place where said sale will be held. If prior approval is obtained from the city governing body, such unclaimed or abandoned property may be sold at a community auction, provided that a law enforcement officer shall be responsible for the notice and reporting requirements of this Article.

3.0304 Report of Abandoned Property Sale

At the time specified in said notice the said property shall be sold by a law enforcement officer of the City at public auction, to the highest bidder for cash. Within three (3) days after said sale, the officer making the same shall make a report thereof to the city governing body. The report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers, and the amount received therefore. The report shall be made under oath and subscribed by the officer making such sale and shall be filed with the City Auditor within three (3) days after the date of such sale. The officer upon filing the report shall pay to the City Auditor the proceeds of said sale.

3.0305 Bill of Sale - Abandoned Property

Upon the receipt of the report as specified in Section 3.0304, the City Auditor shall prepare a bill of sale of the property sold conveying the same to such purchaser and the same shall be executed by the presiding officer of the governing body, attested by the City Auditor, and delivered to the purchaser.

3.0306 Proceeds of Sale - Abandoned Property

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

3.0307 Redemption of Personal Property

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

3.0308 Annual Report - Unclaimed and Abandoned Property

A law enforcement officer, prior to June 1 of each year, shall submit to the City Auditor a written list of all unclaimed and abandoned property held by the City which has not been sold pursuant to the provisions of this Article. The City Auditor shall bring such list to the attention of the governing body at the next regular meeting.

ARTICLE 4 - House Numbering

3.0401 House Numbering Required

Each platted lot or portion thereof shall constitute a number, which shall be an official designation of the structure erected upon such lot or tract of land within the residential district. Within the business district, each platted lot or portion thereof shall constitute a number, which shall be an official designation of the structure erected upon such lot or tract of land. The number shall correspond to the location of the front door of the structure on the lot. The east side of streets running north and south shall bear the odd numbers and the west side of such streets shall bear the even numbers. The north side of avenues running east and west shall bear the even numbers and the south side of such avenues shall bear the odd numbers.

3.0402 Numbers of Houses

Emergency 911 Guidelines suggest the following for numbering on houses:

1. Numbers should be at least three (3) inches high.
2. Numbers should be plain block numerals, not script or written numbers
3. Numbers shall be set on a background or contrasting color, preferably white or black.

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