

Chapter 26

STREETS AND SIDEWALKS*

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* Prior history: Code 1958 §§ 26-1, 26-2, 26-4, 26-6—26-8, 26-10, 26-11, 26-15, 26-16, 26-18, 26-19, 26-21—26-26, 26-37—26-46, 26-48—26-50, 26-52, 26-54 and Ords. 1062, 1239, 1273, 1323, 1381, 1387, 1456, 1476, 1552, 1556, 1688, 1734, 1778, 1779, 1803, 1886, 1889, 1929 and 1929(a).

Article I. In General

Sec. 26-1. Street department created.

There is created a street department which shall have charge and supervision of the upkeep and maintenance of all paving, streets, alleys, curbs, sidewalks, bridges, street and alley lighting, culverts, dikes, sewers, street crossings, cleaning of streets and alleys and other similar matters. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-2. Classification of streets; record on file.

The streets of the City shall, from time to time, be classified as business streets and residence streets. The City shall keep a permanent record of such classification, which record shall show the width of the streets, width of sidewalks, position of curb line and date of classification. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-3. Erection of poles, permit required.

It is unlawful and constitutes the creation of a nuisance for any person, upon any street within the City, to erect any pole or shaft by digging and setting the same in the ground, or otherwise, without first obtaining a permit so to do from the City Commission. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-4. Poles and water hydrants.

All telegraph, telephone, electric light, and fire and police alarm poles, and all water hydrants shall be placed under the direction of the City, and it is unlawful to place any obstruction whatever, outside of the curbing. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-5. Reserved.

Sec. 26-6. Marking or painting on sidewalks, curb or pavement.

It is unlawful for any person, without the permission of the City to paint or mark upon, or to make any alterations in the color of, any sidewalk, curb or pavement in the City, or to paint, mark or write any sign, letters or words with crayon, paint or other material, upon any such sidewalk, curb or pavement. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-7. Injuring or defacing pavement, or concrete in curbs or gutters, etc.

It is unlawful for any person, other than the City, to intentionally or wilfully, chip, break, cut or in any manner deface or injure any concrete in any street or sidewalk, pavement or any curb or gutter surface or intentionally to step upon or walk, run, ride or drive over or upon any soft work concrete and thereby make any track or depression therein or cause injury to the same before the concrete has become set. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-8. Gutters on buildings adjacent to paved public alleys.

The owner of any building adjacent to a paved public alley draining water from the roof of such building on a paved public alley shall install roof gutters connected to overflow drains with diffusers at the bottom thereof to prevent water from splashing on any paved public highway. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-9. Disposal of waste oil or other oil upon the City streets or alleys prohibited.

A. No person shall dispose of waste oil or other oil upon the City streets or alleys.

B. Special permit may be obtained from the City for the oiling of City streets or alleys for dust control purposes. The City may determine the particular type of oil to be used. Such permit may be issued if it is in the best interest of City residents considering health, environmental, and street maintenance factors. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-10. Permit for sidewalk installation or repair.

Any person or entity shall be required to obtain a permit from the City offices prior to undertaking installation or repair of sidewalks.

All sidewalk installation and repair shall meet minimum City standards for design and for construction. Such standards may be adopted by motion by the City Commission.

No fee shall be charged for the sidewalk permit.

(Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-11. Ice, slush and snow upon a public sidewalk is a nuisance.

Ice, slush or snow remaining upon a public sidewalk is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within twenty-four (24) hours after such ice, slush or snow has been deposited. The ice, slush or snow which is removed from the sidewalk shall be deposited either upon the boulevard or upon private property such as a yard where the boulevard or private property abuts the sidewalk. In areas of the City, such as the

downtown business district, where there is no boulevard and no private property upon which the ice, slush or snow may be deposited and the sidewalk abuts the street, the ice, slush or snow may then be spread upon the street in such a fashion so as not to create any piles or berms of snow. (Ord. 1940 § 1 (part), 03/15/04)

Sec. 26-12. Failure to remove snow, municipal infraction and civil penalty.

It is a municipal infraction and punishable as hereinafter set forth for the responsible person to refuse, neglect or fail to remove ice, slush or snow from the public sidewalk as required by Section 26-11. Upon proof of the charge by clear and convincing evidence, any such defendant may be punished by a civil penalty not to exceed Twenty-Five Dollars (\$25.00) for the first offense, not to exceed Fifty Dollars (\$50.00) for the second offense committed within three hundred sixty-five (365) days from the first offense and not to exceed Three Hundred Dollars (\$300.00) for the third or any subsequent offenses committed within three hundred sixty-five (365) days from the first offense. Each day that the infraction is allowed to continue constitutes a separate and punishable infraction. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-13. Enforcement.

The Code Enforcement Officer or any duly appointed assistant shall issue a summons and complaint to the responsible party. The proceedings for municipal infractions set forth in 7-1-4151 Montana Code Annotated, as amended, shall govern the proceedings for municipal infractions charged hereunder. (Ord. 1940 § 1 (part), 3/15/04)

Secs. 26-14—26-29. Reserved.

Article II. House Numbering

Sec. 26-30. Compliance with article.

All houses, the term "house" to include all buildings designed for human occupancy, fronting on public streets in the City shall be numbered in conformity with the provisions of this Article. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-31. Allotment; odd and even division.

One hundred (100) numbers shall be allotted to each block or space between two (2) streets; odd numbers shall be on the left and even numbers on the right going from the two (2) dividing streets, as follows: from Main Street, dividing east and west, and from Callender Street, dividing north and south. One (1) number shall be allowed for each twenty-five (25) feet of ground in each such block or space between streets, and all numbers not required after making this allowance for each block, shall be discarded. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-32. System.

On streets running northerly or southerly in the City, the numbering shall commence with number one hundred (100) at Callender Street, and increase in each direction from Callender Street, one

hundred (100) numbers for each block or space between streets; and to distinguish such numbers, the streets shall be designated, reckoning from Callender Street, as North Main Street, South Main Street; North Second Street, South Second Street; North B Street, South B Street; and the same with all the other streets running perpendicular to and crossing Callender Street.

On streets running easterly and westerly in the city, numbering shall commence with number one hundred (100) on Main Street and its extensions, and increase in each direction from Main Street one hundred (100) numbers for each block or space between two (2) streets; and, to distinguish such numbers, the streets aforesaid shall be designated, reckoning from Main Street, as East Callender Street, and West Callender Street; East Lewis Street and West Lewis Street, and the same with all other streets running perpendicular to and crossing Main Street. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-33. Assignment of numbers.

The City shall designate the numbers of all houses in conformity with this Article, and shall furnish the owner of each house with its proper number as soon as completed. At any time, if any house is not correctly numbered or not numbered at all, the City shall give the owner or occupant of such house its proper number, and require the same to be put on such house in a conspicuous place on the front facing the street, at the expense of the owner or occupant. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-34. Penalty for violation of article.

In case any owner, occupant, or agent after having been requested by the City, as provided in Section 26-33 shall refuse or neglect for ten (10) days to number a house as required, or shall number or attempt to number such house otherwise than in conformity with the provisions of this Article, and the requirements of the City, such persons shall upon conviction be punished as provided in Section 1-8, and the City shall cause such house to be numbered correctly at the expense of such person. (Ord. 1940 § 1 (part), 3/15/04)

Article III. Obstructing

Sec. 26-35. Obstructions—permit required.

It is unlawful for any person, including employees of any person, to unnecessarily obstruct any street or other public way by any means whatsoever, except for some necessary purpose and with a permit from the commission or the Chief of Police, and then only for such period of time as shall be designated in the permit. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-36. Same—failure to remove.

It is unlawful and constitute the maintaining of a nuisance for any person to fail to remove any obstruction placed in or upon any street or other public way whenever any permit previously granted shall have been withdrawn, or when notified so to do by the City, Chief of Police or other authorized officer. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-37. Reserved.

Sec. 26-38. Obstructing streets and sidewalks.

A. It is unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and in consort, or in consort with others in a public place in such manner so as to:

1. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tend to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

2. Commit in or upon any public street, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon and thereto.

B. When any person causes or commits any of the conditions enumerated herein, a Police Officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of the Section.

C. Any person who violates any of the provisions of this Section shall be subject to a fine not exceeding One Hundred Dollars (\$100.00) or by imprisonment not exceeding ten (10) days or both. Any such violation shall constitute a separate offense on each successive day continued. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-39. Reserved.

Sec. 26-40. Snow removal vehicles—permit requirements.

A. Any person operating motorized equipment or vehicles for snow removal for hire shall be required to have a City permit.

B. All permit holders and all Federal, State or local governmental entities and school districts shall comply with the City Ordinances and with requirements for removal and deposit of snow as set forth in regulations set forth in writing by the City Public Works Superintendent.

C. Each permit shall cost Fifteen Dollars (\$15.00) per year and shall be purchased by January 31st of each year without proration. (Ord. 1940 § 1 (part), 3/15/04)

Secs. 26-41—26-79. Reserved.

Article IV. Wires Over Streets

Sec. 26-80. Application of article.

This Article shall not apply to any wires strung or maintained as conductors for electric lighting or power purposes, or for any fire alarm, telegraph or telephone wire, or messenger call circuit. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-81. Reserved.

Sec. 26-82. Same—from Police Chief.

No person shall string or maintain any wire over or across any street, avenue or alley within the City, above the surface of the earth, by means of attaching the same to poles or shafts, or other erections, or to cross bars supported by poles or shafts or other erections without first procuring a permit permission in writing from the Chief of Police. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-83. Height and manner of stringing regulated.

All wires strung or maintained across any street, avenue or alley shall be strung and maintained at a height of not less than twenty (20) feet above the surface of the earth, and shall be securely fastened or anchored to buildings or poles for that purpose, and in such manner as not to be in danger of falling or coming in contact with any other wire, and in such a manner as not to endanger life or property. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-84. Maintenance permit—required; safety inspection prerequisite to issuance.

Prior to any such wire being strung the person owning, controlling or maintaining such wire shall procure a permit in writing from the Chief of Police to maintain such wire. The permit shall give the name of the owner of the wire and describe the location of the same.

It shall be the duty of the Chief of Police to promptly examine and inspect all such wires, and unless the same are securely strung, anchored and maintained so as not to be dangerous to life or property, he shall refuse to issue the permit required by this Section. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-85. Reserved.

Sec. 26-86. Unsafe wires, notice to remove.

If upon any inspection, the Chief of Police finds that any wires are strung or being maintained across any street, avenue or alley in such manner or condition as to be dangerous to life or property, he shall give notice in writing to the person owning or controlling such wire, to remove or alter the same. Upon receipt of such notice it shall be the duty of such person to remove or alter the same within one (1) day after the service of notice. (Ord. 1940 § 1 (part), 3/15/04)

Article V. Street Maintenance Districts

Sec. 26-87. Designation.

A. Any portion of the City may be designated as a street maintenance district by resolution of the City Commission. When so designated, such district may be maintained for such time and in such manner, and under the supervision of the City.

B. "Maintenance" includes but is not limited to sprinkling, graveling, oiling, chip sealing, seal coating, overlaying, treating, general cleaning, sweeping, flushing, snow removal, and leaf and debris removal.

C. "Streets" in this Article includes streets, alleys, curbs and gutters.
(Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-88. By whom work may be done.

Street maintenance as referred may be done by contract or by the City, or both. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-89. Determination of maintenance costs—when.

The City Manager shall certify to the Commission on or before the first Monday in October, of each year, the cost and expense of City and other forces used in each maintenance district of the City, together with an estimate of the cost for the portion of the time such forces may be required to be used in each district for the balance of the fiscal year. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-90. Assessment of costs.

The anticipated costs and expenses of each maintenance district for each fiscal year, exclusive of the cost of maintaining public places and the intersections of streets with avenues or alleys, shall in all cases be assessed and taxed to the lots or parcels of land within the district in such proportion as the City Commission may annually determine, but not less than seventy-five (75) percent of such costs. The assessment shall be based upon square footage of lots. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-91. Maximum annual assessment for parcels, tracts or lots which are undeveloped and unimproved.

The maximum annual assessment for street maintenance for any tract, parcel or lot which is undeveloped and unimproved shall be no more than seventy-five (75) percent of improved lots. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-92. Certification of tax.

The taxes for maintenance districts assessed under Sections 26-90 and 26-91 shall be extended in the same manner as other special assessments and shall be certified to the County Treasurer for collection with regular real property taxes. (Ord. 1940 § 1 (part), 3/15/04)

VI. Bicycle/Pedestrian Path

Sec. 26-93. Definitions.

For the purpose of this Chapter, the following definitions apply:

“Bicycle/pedestrian path” means the path constructed between Fifth Street and Rogers Lane for the use of bicycles and pedestrians and which is designated as a bicycle/pedestrian path by signage.

“Vehicle” means every device or machine, whether motorized or animal powered, upon or in which any person or property may be transported and includes, but is not limited to automobiles, trucks, motorcycles, motor driven cycles, motor scooters, all terrain vehicles (ATVs), snowmobiles, golf carts, go-carts, and animal powered devices, such as carriages and buggies, etc.

“Pedestrian” includes walkers, joggers, roller skaters, in-line skaters, skate boarders, cross country skiers and any other use relying solely upon human power.

“Bicycle” means every vehicle propelled solely by human power, including foot powered scooters.

The words as used herein "purposely, knowingly or negligently" have the same meaning as defined in 45-2-10 Montana Code Annotated. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-94. Prohibition.

Except as provided for in Article III, no person shall purposely, knowingly or negligently drive, operate or be in actual physical control of a vehicle upon any portion of the bicycle/pedestrian path and no person shall ride or lead a horse upon any portion of the bicycle/pedestrian path. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-95. Exceptions.

A. A person is not guilty of committing the above offense if the vehicle is authorized by the City of Livingston to be driven upon the bicycle/pedestrian path.

B. Nothing herein is to be construed as prohibiting the driving, operation or actual physical control of a bicycle, baby carriage, wheelchair, motorized wheelchair or similar device used by a handicapped person, child's pull wagon or similar device.

C. No offense is committed where a vehicle or horse, using an established street or road, drives across the bicycle/pedestrian path on said street or road. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-96. Penalty.

A person convicted of the offense of driving, operation or being in actual physical control of a vehicle on the bicycle/pedestrian path or riding or leading a horse upon the bicycle/pedestrian path may be imprisoned in the County Jail for a term not to exceed six (6) months or fined an amount not to exceed Five Hundred Dollars (\$500.00), or both fine and imprisonment. (Ord. 1940 § 1 (part), 3/15/04)

Article VII. Covering Boulevards with Manmade Materials

Sec. 26-97. Definitions.

"Approach walkway" means a pedestrian walkway from the back curb perpendicular to the abutting property owners front boundary not to exceed four (4) feet in width.

"Back of curb" means that portion of the curb nearest to the abutting landowners front boundary line or the equivalent where there is no curb in place.

"Boulevard" means that portion of a public street right-of-way approximately fourteen (14) feet in width on each side of the thirty-eight (38) foot wide paved or traveled portion of the street used for vehicular travel and located between the back of curb and the front boundary line of the abutting landowners property.

"Front property line" means that boundary line of an abutting property owner closest to and parallel to the public street right-of-way.

"Public street right-of-way" means the sixty-six (66) foot wide strip of land owned by the City for purposes of vehicular and pedestrian travel.

"Manmade material" means concrete, asphalt or similar material as determined by the City of Livingston. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-98. Paving prohibited.

Except as hereinafter provided, it shall be a civil offense for any person to unlawfully cover with a manmade material any boulevard owned by the City of Livingston and punishable by a civil penalty not to exceed Three Hundred Dollars (\$300.00). In addition, the property owner will be required to remove the unauthorized material at the landowner's expense. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-99. Exceptions.

Upon obtaining the requisite permit from the City prior to commencing work, the following exceptions to placing manmade material in the boulevard may be made:

- A. Driveway pursuant to Section 26-107 of the Livingston Municipal Code;
- B. Sidewalk pursuant to Section 26-10 of the Livingston Municipal Code unless the property has been ordered to install the sidewalk by the City; and
- C. Approach walkway from the back of curb perpendicular to the abutting property owner's front property line pursuant to Section 26-10 of the Livingston Municipal Code. (Ord. 1940 § 1 (part), 3/15/04)

Article VIII. Excavation Permit—Public Rights-of-Way

Sec. 26-100. Excavations; permit and bond required, penalty for failure to obtain.

A. No persons shall open up, dig into, excavate, or tunnel under any streets, alleys, sidewalks, or other public places of the City for any purpose whatsoever, including, but not limited to, connecting with any of the mains or pipes of the City waterworks or sewer, installing underground utilities, phone or television cable, alteration or repair of any underground electrical wiring, installing water or sewer extensions and altering or repairing any underground natural gas or hot water pipes or heating appliances, without having first obtained a permit from the City. The City Building Department shall be responsible for the issuance of right-of-way permits and inspections.

B. Bonding and Insurance Requirements. Prior to issuing a permit, the applicant shall provide proper certificates showing insurance coverage and bonding as follows:

1. A comprehensive public liability insurance policy, including automobile coverage, insuring against loss and for damages for personal injury or death and/or property loss, damage or destruction arising out of or in connection with the issuing of the permit and performing the work thereunder with the minimum liability limit of Seven Hundred Fifty Thousand Dollars (\$750,000.00) per claim and One Million Five Hundred Thousand Dollars (\$1,500,000.00) for each occurrence naming the City as an additional insured.

2. A good and sufficient bond with a licensed company as a surety authorized to transact business in Montana, conditioned to restore and place in as good and safe condition as near as may be to its original condition and to the satisfaction of the Director of Public Works, all openings and excavations made in the public right-of-way and to maintain any public right-of-way where excavations or openings were made in as good condition for the period of two (2) years after completion of work, which date shall be documented, usual wear and tear excepted. Any settlement of the surface within

said two (2) year period shall be deemed conclusive evidence of defective backfilling and compaction by the permit holder.

C. The City will require that any applicant for the permit described herein provide a description of the plans, and if needed, engineering data that, in the opinion of the City, clearly set forth the details and extent of the anticipated excavation.

D. All permittees shall undertake the completion and backfill of any excavation as soon as possible after work has been initiated, but before excavation repair is undertaken by backfilling, tamping or other methods, both the initiation and method of filling or repair shall be approved by the City. Upon completion of the excavation repair, the City must approve the completed work; the permittee shall place the streets, alleys, sidewalks, or other public place in as good condition as before the work was commenced. The permittee shall be required to undertake additional repair work at the excavation site within two (2) years from completion of the project if material defects, as determined by the City, appear and were due to normal settling of material or resulted, directly or indirectly, from the excavation or digging and cause the excavation site to be in not as good condition as before the work was undertaken.

E. If the permittee fails to make adequate repairs within thirty (30) days, or within such additional time as may be agreed to by the City, after notification of the defects by the City, the City shall correct the defects. The permittee shall, in such event, be liable for all costs incurred by the City.

F. All permittees shall place suitable obstructions or barricades around excavations and shall maintain sufficient lighting at night to clearly indicate the area under construction. If a barricade of a street, sidewalk, or other public place is needed, the distance for which barricades may be placed shall be fixed by the City. Where the lights, barricades and obstructions have been so placed and maintained, it is unlawful for any person to walk on, or step upon the same or to drive any vehicle or animal over the same. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-101. Procedure to obtain permit; fees.

A. Permits to excavate within any public right-of-way can be obtained from the City Building Department. Application will be made on forms supplied by the City and must be obtained prior to undertaking any work. No permit shall be valid unless it bears the signed approval of the Building Official or his appointed representative.

B. The following fee(s) shall apply:

New streets:

1. Opening of street within one (1) year after street has been replaced. Permit fee equates to the percentage of the street to be opened multiplied by the full cost of the street replacement, but not less than Twelve Dollars (\$12.00) per square foot.

2. Opening street within two (2) years after street has been replaced. Permit fee equates to the percentage of the street to be opened multiplied by eighty (80) percent of the cost of the street replacement, but not less than Ten Dollars (\$10.00) per square foot.

3. Opening street within three (3) years after street has been replaced. Permit fee equates to the percentage of the street to be opened multiplied by sixty-five (65) percent of the cost of the street replacement, but not less than Eight Dollars (\$8.00) per square foot.

Other streets:

Opening street three (3) years or longer after street has been replaced. Permit fee equates to the percentage of the street to be opened multiplied by the depreciated value of the cost of street replacement, but not less than Five Dollars (\$5.00) per square foot.

Streets to be replaced within two (2) years:

1. Where the City plans on replacing the street to be opened within one (1) year of street opening, the permit fee shall be Two Hundred Fifty Dollars (\$250.00).
2. Where the City plans on replacing the street to be opened within two (2) years of street opening, the permit shall be Five Hundred Dollars (\$500.00).
3. Where the City plans on replacing the street to be opened in three (3) or more years, the permit fee will be calculated under the other streets section of this Chapter.

C. **Exceptions From Permit Fees.** No permit fee will be charged for excavations in the public right-of-way, which are necessitated by City-initiated work projects.

D. **Failure to Obtain Permit; Penalty for Violation.** Any person or entity engaged in street excavation without first having obtained the required City permit shall be charged a penalty of Five Hundred Dollars (\$500.00) in addition to the cost of the required permit. (Ord. 1940 § 1 (part), 3/15/04)

Article IX. Construction and Repair—Public Rights-of-Way

Sec. 26-102. Design standards for existing rights-of-way.

Where street rights-of-way already exist at sixty-six (66) feet, the following design standards shall apply:

Back of curb to back of curb	38 feet wide
Boulevard (residential only)	8 feet wide by 2
Sidewalk*	6 feet wide by 2

* Unless specified differently in Section 26-58.
(Formerly Sec. 26-49: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-103. Barricades and lights for protection of wet pavement.

All contractors constructing any pavement on any street, sidewalk, or other public ways within the City shall, before beginning construction of the same, place suitable obstructions or barricades across the same and maintain warning lights at night at the point where construction begins and at the point where the portion of the work immediately about to be constructed is to terminate, and shall maintain the obstructions or barricades and lights until the pavement is completed and set, so as not to be injured by traffic. Where the lights, barricades, or obstructions have been so placed and maintained; it is unlawful for any person to walk, run, or step upon the same, or to drive any vehicle or animal over the same. The distance for which any street, sidewalk or other public way about to be paved may be barricaded for construction purposes shall be fixed by the City. (Formerly Section 26-50: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-104. Cost factor consideration—maximum grade.

In all future street construction within the City, the same shall be considered particularly with reference to cost, safety of operation, and all engineering practicalities relative thereto; and the grade limit thereof shall not exceed fifteen (15) percent. (Formerly Section 26-51: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-105. Curbs—location—specifications.

The curb on all streets shall be located by the City or under the supervision of an Engineer or Surveyor and so set as to conform as near as practical to the curbs already constructed on the respective streets. All curbs shall be constructed of concrete and, when matching or replacing old City style curbing, shall be not less than six (6) inches wide at the tip, twelve (12) inches wide at the base, and not less than eighteen (18) inches deep. New, original curbing shall be constructed to the standards for concrete curb and gutter found in Montana Public Works Standard Specifications. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-106. Curbs—compliance with requirements, slope repair of existing adjacent curbing and pavement.

All curbing shall be of material approved by the City and shall be placed in accordance with the requirements of the City. The top of the curb shall, in each instance, be in a straight line throughout its entire length, shall be even with the surface of the enclosed space as graded, and shall conform to the grade line to be given by the City. The City may require a professional Surveyor to establish that grade, at the permittee's expense. There shall be a uniform slope of one-quarter (1/4) inch to the foot from the line of the adjoining private premises to the top of the curb. Driveways may be made from the street to the premises, provided the same shall not be permitted to obstruct the free flow of water in the side gutters. The parkways and the curbing thereof shall be kept in good order and repair by the respective abutting proprietors at their own expense. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-107. Driveway construction—permit and supervision.

Before any person builds or constructs a driveway from private property and where concrete curbing must be removed to any City street, a written permit shall be obtained from the City to permit a curb cut and driveway construction. The City Building Department must approve all plans and specifications for the construction of the driveway. A permit fee of One Hundred Dollars (\$100.00) shall be charged for each curb cut in a two (2) hour parking zone. In all other areas, the permit fee shall be Thirty Dollars (\$30.00). The Building Department may supervise the construction of the curb cut and driveway to see that specifications are met. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-108. Parkway construction by abutting property owner—limitation.

All residential streets in the City, laid out in sixty-six (66) foot rights-of-way, shall be maintained and reconstructed only in such a manner which allows for the existence of an eight (8) foot parkway, or grass plot, to be located between the curb line and the sidewalk. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-109. Installation of utility mains—notice of street paving—time limit for installing.

When any of the streets or other public ways in the City are about to be paved under the provisions of the special improvement district laws of the State, or otherwise, and utility mains and connections therefore to the curb lines of the adjacent property have not been laid and installed in such streets or other public ways, the City shall notify any person engaged in the business of selling such utility service to residents thereof, of such contemplated improvement and such person shall immediately install such mains and connections and have such installation completed, trenches backfilled and compacted, fifteen (15) days prior the time the operation of excavating for laying such paving shall be scheduled to commence. (Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-110. Installation of utility mains—duty of utility companies to install mains prior to street paving.

All persons engaged in selling to consumers in the City, natural or artificial gas for domestic, industrial or any other use, and hot water for heating purposes, are required to install and to lay the necessary mains under streets, avenues, and alleys, and to make connections from the mains to the curb lines of the adjacent property, before any paving is constructed or laid on such streets, avenues and alleys. (Formerly Sec. 26-57: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-111. Width of sidewalks.

All sidewalks hereafter constructed on Park Street between Third and D Streets and on Main Street between Park and Geyser Streets shall be built of a width of not less than twelve (12) feet outward from the front line of the adjacent lots; on Second Street, between Park and Lewis Streets and on Callender Street between Second and C Streets, all sidewalks shall be not less than ten (10) feet in width from the frontage of the adjacent lots. Sidewalks laid on business or residence streets shall be constructed according to the specifications from time to time adopted by the City.

On residence streets, the sidewalks shall be six (6) feet in width unless otherwise designated. (Formerly Sec. 26-58: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-112. Sidewalk construction—petition by lot owners.

Whenever the owners of a majority of lots in any one block of the City fronting upon the same street shall petition the City Commission for the construction of a sidewalk along that side of the block, the City Commission may order the construction of the sidewalk under the provisions of the ordinances of the City and the laws of the State.

The owner of any lot signing the petition must sign his own name thereto; the name of such owner shall not be signed to any such petition by any agent, or any other person, unless authorized to do so by regular power of attorney filed with the City. (Formerly Sec. 26-59: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-113. Sidewalk construction—alternative methods.

The City Commission, upon its own motion, or at the request of the owners of less than a majority of the lots in any one block, fronting the same street, may order the construction of any sidewalk in the City. Before such sidewalk is ordered constructed, the City shall give notice by registered mail

to all owners of such lots, who reside within the City, who will be compelled to bear any part of the cost of construction of such sidewalk stating the time and place that the City Commission will consider the advisability of construction of such sidewalk.

When the lot owners do not live within the City, a similar notice shall be sent by the City, by registered mail, to the agents of such owners, if they have agents living within the City. The City shall keep a record of the registry receipts of the postmaster, showing the mailing of such notices, and shall also make and keep on file an affidavit as to the nonresidency of owners to whom notices have not been sent. (Formerly Sec. 26-60: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-114. Sidewalk construction—cost borne by owner of abutting property.

When any street in the City shall be ordered improved by the construction, repair or renewal of a sidewalk and curb where the curb abuts the sidewalk, along either or both sides thereof, the duty, burden or expense of constructing, maintaining, repairing and renewing of such sidewalk shall devolve upon the owner of the property directly abutting on that side of such street along which sidewalk has been constructed, repaired or renewed, or ordered constructed repaired or renewed, and any such assessment for costs shall be levied against such property. Any curb which does not abut a sidewalk is not the responsibility of the adjacent property owner to construct, repair or renew; for purpose of this Section, a curb abuts a sidewalk where the sidewalk is in contact with the curb, but does include the corner of the block where the sidewalks extend to the street. When any sidewalk and any abutting curb is ordered by the City Commission to be built, repaired or renewed, the abutting landowner shall within thirty (30) days from the publication or service of notice of such order, notify the City as to how the abutting owner will construct, repair or renew the sidewalk. If the work be not commenced by the owner of the property within thirty (30) days thereafter, or if, after the commencement of such work, it be not carried to completion with due diligence, such sidewalk shall be built, repaired or renewed by the City. The City shall notify the owner of the costs, and that if the same be not paid within thirty (30) days from date of such notice, the costs shall be assessed against the property as provided in Section 26-115. Provided, further, nothing herein shall abridge the right of the City to make such repairs as public safety demands on less notice or without notice, at the expense of the lot owner. (Formerly Section 26-61: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-115. Sidewalk construction—assessment and collection of cost.

The City shall each year prepare a resolution containing a list of all lots in the City, the sidewalk and abutting curb in front of which have been built, renewed or repaired by the City, and cost of which has not been paid by the owner as provided in Section 26-116, which list shall contain opposite the number of such lot, the name of the owner, if known, and the amount of the cost of building, renewing or repairing such sidewalk and abutting curb and the Commission shall by such ordinance, levy and assess special taxes against all such property in such list for the amount of such cost and penalty. Copies of such ordinance shall be, by the City, certified to the County Treasurer for collection in the same manner as other taxes. Such ordinance shall be prepared by the City in time for its adoption not later than the regular meeting of the City Commission in the month of August of each year; provided, no percentage shall be added for collection of the cost of repairing, renewing or building any sidewalk and abutting curb, the owner of which has not been notified to pay such cost at least

thirty (30) days before the passage of such ordinance. If in the opinion of the City Commission the payment of the entire cost in one (1) year will work an undue hardship upon the owner of the property upon which the sidewalk abuts, it shall be optional with the City Commission to extend the payment of the cost and penalty over a period of time not exceeding five (5) years, and to provide that such payments shall draw interest from the date of the completion of improvements and their acceptance by the Commission at the rate of six (6) percent per annum. (Formerly Sec. 26-62: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-116. Sidewalk construction—procedure for emergency repair of sidewalks—cost.

Whenever the public convenience or safety requires any sidewalk in case of injury or defect, to be repaired, the City shall, if the same be not immediately repaired by the owner or his agent after three (3) days' notice, served upon such owner or agent, or if he is a nonresident, on the occupant, or if the lot is unoccupied, posted upon the lot close to the walk to be repaired, proceed to repair the same, and report the cost to the City Commission, to be collected by the City and in default to be collected in the same manner as taxes for building sidewalks. In case the public safety demands the immediate repair of any sidewalk and abutting curb, the City shall make such repairs as are absolutely necessary to render such sidewalk safe without waiting for the expiration of such notice, and he shall return the cost of such repairs to the City Commission as provided in Section 26-16. (Formerly Sec. 26-63: Ord. 1940 § 1 (part), 3/15/04)

Sec. 26-117. Construction or reconstruction of public right-of-way.

The construction or reconstruction of any public right-of-way with an asphaltic or concrete surface pavement shall include the installation of metal monument boxes, fitted with permanent brass monuments, in the new pavement of the right-of-way to indicate the exact location, directly or by offset, of each intersection with another public right-of-way, each change in right-of-way alignment, and any other route station requiring monumentation in order to demarcate and perpetuate the location of the right-of-way in conformity with adjoining boundaries of public records.

All right-of-way monuments are to be located and marked by or under the supervision of a Montana registered land surveyor, in conformity with information of public record and sound evidence of original monumentation determined by survey.

The location of all rights-of-way monuments set in the course of the survey shall be indicated on a Certificate of Survey which must be accepted and approved by the City Commission and filed in the office of the Park County Clerk and Recorder, pursuant to the laws of the State of Montana, within one hundred eighty (180) days of the completion of said survey, showing connecting bearings and distances, measurement ties to found monuments of the procedure adopted to determine the location of all monuments set. The cost in special improvement districts shall be paid by the District. (Formerly Sec. 26-64: Ord. 1940 § 1 (part), 3/15/04)