

THE FOURTH CLASS CITY ACT (EXCERPT)
Act 215 of 1895

CHAPTER XXII
STREETS AND PUBLIC GROUNDS.

102.1 Thoroughfares and public grounds; control by council; damage suits, liability; required notice.

Sec. 1. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the city, and shall cause the same to be kept in repair, and free from nuisance. No city subject to the provisions of this act shall be liable in damages sustained by any person in such city either to his person or property by reason of any defective street, sidewalk, crosswalk, or public highway, or by reason of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or public highway, situated in such city, unless such person shall serve or cause to be served, within 60 days after such injury shall have occurred, a notice in writing upon the clerk or the deputy clerk of such city, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold such city liable for such damages as may have been sustained by him. No city shall be responsible for the care, improvement or repair of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked and used by the public as a street or alley before the incorporation of the city under this act, nor for the improvement and repair of any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall have been accepted and confirmed by the council by an ordinance or resolution specially passed for that purpose.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3173;—CL 1915, 3087;—CL 1929, 2011;—CL 1948, 102.1.

102.2 Thoroughfares; public improvements; condemnation; expenses, assessment.

Sec. 2. The council shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate or abolish any highway, street or alley in the city, whenever they shall deem the same a public improvement; and if in so doing it shall be necessary to take or use private property, the same may be taken in the manner in this act provided for taking private property for public use. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, in the manner in this act provided for levying and collecting special assessments; or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general street fund.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3174;—CL 1915, 3088;—CL 1929, 2012;—CL 1948, 102.2.

102.3 Thoroughfares; resolution to vacate; hearing, notice.

Sec. 3. When the council shall deem it advisable to vacate, discontinue or abolish any street, alley or public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time, not less than 4 weeks thereafter, when they will meet and hear objections thereto; notice of such meeting with a copy of said resolution shall be published for not less than 4 weeks before the time appointed for such meeting, in 1 of the newspapers of the city.

Objections to such proposed action of the council may be filed with the city clerk in writing, and if any such shall be filed, the street, alley or public ground, or any part thereof, shall not be vacated or discontinued, except by a concurring vote of 2/3 of the aldermen elect.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3175;—CL 1915, 3089;—CL 1929, 2013;—CL 1948, 102.3.

102.4 Thoroughfares; survey; boundaries; recording of descriptions; ordinance to discontinue street; filing with secretary of state.

Sec. 4. The council may cause all public streets, alleys, and public grounds to be surveyed, and may determine and establish their boundaries and cause those surveys and descriptions to be recorded in the office of the city clerk, in a book of street records; and they shall cause surveys and descriptions of all streets, alleys, and public grounds opened, laid out, altered, extended, or accepted and confirmed by the council, to be recorded in like manner; and that record shall be prima facie evidence of the existence of those streets, alleys, or public grounds as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley, or public ground shall also be recorded in the book of street records, and the record shall be prima facie evidence of all the matters set forth in that book, and a true copy of every resolution or ordinance,

containing an accurate description of the lands comprising any street, alley, or public ground, laid out, altered, extended, discontinued, or vacated shall be recorded in the office of the register of deeds for the county where those lands are situated, and shall thereafter be filed in the office of the secretary of state.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3176;—CL 1915, 3090;—CL 1929, 2014;—Am. 1935, Act 133, Imd. Eff. June 4, 1935;—CL 1948, 102.4;—Am. 2002, Act 376, Imd. Eff. May 24, 2002.

102.5 Thoroughfares; street grading; diagrams, record.

Sec. 5. The council shall have authority to determine and establish the grades of all streets, avenues, alleys and public grounds within the city, and to require improvements and buildings adjacent to or abutting upon such streets, alleys or grounds to be made and constructed in conformity with such grade and upon such line as shall be prescribed by the council; and the council may change or alter the grade of any street, alley or public ground, or of any part thereof, whenever in their opinion the public convenience will be promoted thereby. Whenever a grade shall be established or altered, a record and diagram thereof shall be made in the book of street records in the office of the city clerk.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3177;—CL 1915, 3091;—CL 1929, 2015;—CL 1948, 102.5.

102.6 Thoroughfares; expense of grading, payment.

Sec. 6. Whenever any street, alley or public highway shall have been graded, or pavement shall have been constructed in conformity to grades established by authority of the city, and the expense thereof shall have been assessed upon lots or lands bounded by or abutting upon such street, alley or public highway, the owner or owners of such lots or lands shall not be subject to any special assessment occasioned by any subsequent change of grade in such pavement, street, alley or public highway, unless such change be asked for by a majority of the owners of such lots or lands; but the expense of all improvements occasioned by such change of grade shall be chargeable to and paid by the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3178;—CL 1915, 3092;—CL 1929, 2016;—CL 1948, 102.6.

102.7 Thoroughfares; grade changes, damage to property owner; compensation, assessment, procedure.

Sec. 7. Whenever the grade of any street or sidewalk shall have been heretofore, or shall hereafter be established, and improvements shall thereafter be made by the owner or occupant of the adjacent property in conformity to such grade, such grade shall not be changed without compensation to the owner for all damages to such property resulting therefrom, to be ascertained by a jury as provided in chapter 25 of this act, or said damages may be ascertained and agreed upon by and between such city and the owner or occupant of such premises. Whenever such damage shall be ascertained or agreed upon as heretofore provided, such damages, or such part thereof as the council shall deem equitable and just, shall be paid by the city, or the council may cause such damages, or such part thereof as may be just and proper, to be assessed upon such real estate as may be benefited by reason of the change of such grade, and whenever the council shall determine to assess such damages, or any part thereof, upon the property benefited, it shall determine and define a district in said city which in its judgment is benefited by the improvement out of which said damages arise, and shall cause the same to be assessed upon such district, which said assessment shall be upon the owners or occupants of the taxable real estate in said district, in proportion as nearly as may be to the advantage or benefit each lot, parcel, or subdivision is deemed to acquire by the improvement out of which such damages arise, but the property on account of which such damages were awarded shall not be included in said district. The assessment shall be made, and the amount levied and collected in the same manner as other assessments on a district deemed to be benefited in the grading and improvement of streets, as provided for in this act; and all of the provisions of chapter 24 of this act, relative to special assessments and the collection thereof, shall apply thereto. Such damages, when collected as aforesaid, and when determined upon by said city, shall be paid to the person entitled thereto.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3179;—CL 1915, 3093;—CL 1929, 2017;—CL 1948, 102.7.

Compiler's note: For provisions of chapter 25, referred to in this section, see MCL 105.1 et seq. Chapter 24, also referred to in this section, was repealed by Act 345 of 1974.

PAVING AND IMPROVEMENTS.

102.8 Improvement and repair of highways, streets, avenues, lanes, and alleys; street districts; sewer, water, and gas connections; liability for cost; penalty; special assessment.

Sec. 8. The council shall have power to grade, pave, plank, gravel, curb, and otherwise improve and repair

the highways, streets, avenues, lanes, and alleys of the city; and for that purpose, and for defraying the expenses thereof, may divide the city into street districts. The term "paving" shall be deemed to include the construction of crosswalks, gutters, and curbing. Whenever any paving has been ordered upon any street or public highway in the city, it shall be the duty of any person owning any lot, or land, or premises adjoining to, or abutting upon such street, before the same shall be paved, to put in and lay all sewer, water, and gas connections in front of their land and premises, and carry the same from the pipe in the street to and beyond the curb line of the proposed pavement as the council shall determine to be necessary for the preservation of the proposed paving, when the same shall be laid and put down, and the connection shall be laid, made, and put in in the manner and at the time as directed by the council. In case the owner of such lot, land, or premises shall neglect or refuse to make, lay, or put in the connections at the time or in the manner prescribed by the council, then the council shall cause the same to be made, laid, or put in, and the respective owners of such lot, land, or premises shall be liable for the cost thereof, together with 10% in addition thereto as a penalty to be recovered by the city in an action of debt or assumpsit, or the costs together with the amount of the penalty for which the person shall be respectively liable, the council shall cause to be specially assessed in the manner provided in this act.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3180;—CL 1915, 3094;—CL 1929, 2018;—CL 1948, 102.8;—Am. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: For provisions of section 4, chapter 23, referred to in this section, see MCL 103.4.

102.9 Street districts; expenses of improvement, payment.

Sec. 9. Such part of the expenses of improving any street, lane or alley, by grading, paving, planking, graveling, curbing, or otherwise, and of repairing the same as the council shall determine, may be paid from the general street fund or from the street district fund of the proper street district, or in part from each; or the whole, or such part of the expense of such improvement as the council shall determine, may be defrayed by special assessments upon lots and premises included in a special assessment district, to be constituted of the lands fronting upon that part of the street or alley so improved or proposed so to be; or constituted of lands fronting upon such improvement, and such other lands as in the opinion of the council may be benefited by the improvement.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3181;—CL 1915, 3095;—CL 1929, 2019;—CL 1948, 102.9.

102.10 Repealed. 1974, Act 345, Imd. Eff. Dec. 21, 1974.

Compiler's note: The repealed section pertained to special assessment for improvement or repairs.

STREET REGULATIONS.

102.11 Obstructions to highways; removal.

Sec. 11. The council shall have the power to prohibit and prevent obstructions and encumbrances in, and encroachments upon the public highways, streets and alleys of the city, and to remove the same, and to punish those who shall obstruct, encumber, encroach or maintain any encroachments, upon or in any such highway, street or alley; and to require all such persons to remove every such obstruction, encumbrance and encroachment.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3183;—CL 1915, 3097;—CL 1929, 2021;—CL 1948, 102.11.

102.12 Shade trees; lighting system.

Sec. 12. The council may provide for and regulate the planting of shade and ornamental trees in the public highways, streets and avenues of the city, and for the protection thereof; and may light the streets and public places, and regulate the setting of lamps and lamp posts therein, and protect the same.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3184;—CL 1915, 3098;—CL 1929, 2022;—CL 1948, 102.12.

102.13 Removal of soil; street openings.

Sec. 13. The council may regulate the making of all openings in, and removals of, the soil of public streets, and for the laying or repair of sewers, drains, tunnels, gas pipes, water pipes, or for any other purpose; and may prohibit and prevent all such openings, and removals of the soil, except by express permission of the council, and at such times and upon such terms and regulations as they may prescribe.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3185;—CL 1915, 3099;—CL 1929, 2023;—CL 1948, 102.13.

102.14 Use of highways and streets.

Sec. 14. The council may regulate the use of the public highways, streets, avenues and alleys of the city, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all

vehicles kept for hire, or designate the places where loads of wood, coal, hay and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use or placing of signs, advertisements and banners, awning posts and telegraph, telephone or light poles and wires in or over the streets; to prohibit immoderate riding and driving in the streets or over bridges; to regulate or prohibit all such sports, amusements, proceedings and gathering of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of beasts and fowls in the streets or elsewhere in the city, and to impose penalties upon the owners or keepers thereof permitting the same; to cleanse and purify the streets; and to prohibit, prevent, remove and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same and to punish them; and generally to prescribe and enforce all such police regulations over and in respect to the public streets, as may be necessary to secure good order and safety to persons and property in the lawful use thereof; and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the city, as are conferred by law upon highway commissioners in townships.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3186;—CL 1915, 3100;—CL 1929, 2024;—CL 1948, 102.14.