

ORDINANCE NO. 33

AN ORDINANCE TO PROVIDE FOR THE LOCATION, GRADE, CONSTRUCTION, REPAIR AND MAINTENANCE OF SIDEWALKS; TO PROVIDE FOR THE FINANCING OF THE COST THEREOF; TO PROVIDE PENALTIES FOR THE VIOLATION HEREOF; AND TO REPEAL ORDINANCES INCONSISTENT HEREWITH.

THE VILLAGE OF MORLEY ORDAINS:

Section 1. Definitions. When used in this Ordinance, the words defined in this section shall have the following meanings:

(1) "Street" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public.

(2) "Sidewalk" means that portion of the street designed for pedestrian use and travel, and shall include driveways from a street to private property.

(3) "Commissioner" means the Street Commissioner of the Village of Morley.

(4) "Owner" means the person or persons in whose name any private property adjacent to any street is entered for taxation on the tax rolls of the Village.

(5) "Occupant" means any person or persons actually in possession of any private property adjacent to any street, either with or without the consent of the owner.

Section 2. Specifications. Every sidewalk constructed, rebuilt or repaired after the effective date of this Ordinance shall conform to the grade and line established therefor, and to such specifications as may be established from time to time by the Village Council by resolution.

Section 3. Control and Supervision. All sidewalks shall be under the control of the Village Council, and all construction, maintenance and repair of sidewalks shall be under the supervision of the Commissioner. It shall be the duty of the Commissioner to see that the provisions of this Ordinance are carried out and enforced.

Section 4. Ordering Construction, Rebuilding or Repairs. The Village Council, by resolution, may order any owner and/or occupant (a) to construct sidewalks upon the street adjacent to his property when, in the opinion of the Council, public convenience will be served thereby; (b) to rebuild any sidewalk upon the street adjacent to his property which does not conform to the grade or line established therefor or which does not conform to the specifications established by the Council; (c) to repair any sidewalk upon the street adjacent to his property which has fallen into a state of disrepair or has become unsafe.

Section 5. Notice of Order. Within three days after the adoption of any resolution as provided in Section 4, the Village Clerk shall give written notice thereof to the owner and/or occupant of the property affected, either personally or by certified mail addressed to such owner at the last address shown on the tax rolls of the Village, which notice shall specify the nature and extent of the work to be done and the time within which such work shall be commenced and finished.

Ordinance No. 33 cont.

Section 6. Permits, application. It shall be unlawful for any person to construct, repair or rebuild any sidewalk without having first secured a permit therefor. Applications for such permit shall be made to the Village Clerk, and shall state the location, nature and extent of the intended work, the name of the person who is to do the actual work. The Village Council shall pass upon such application at its regular meeting.

Section 7. Bond. Before starting work under any permit, the applicant shall file with the Village Clerk a bond in the penal amount of \$1000.00, with surety to be approved by the Village President, conditioned to indemnify the Village for any loss or damage resulting from the work undertaken or the manner of doing the same.

Section 8. Barricades. Any person undertaking any work on a sidewalk shall erect and maintain such barriers as may be reasonably necessary to prevent injury to any person or vehicle by reason of such work, which barriers shall be lighted between the hours of sunset and sunrise. Any defect, obstruction or excavation shall be barricaded by the owner and/or occupant in the same manner.

Section 9. Permit, Suspension and Revocation. If the Commissioner shall find that any work undertaken does not conform to established grades, lines or specifications, he shall order such changes as may be necessary. In the event of the failure to comply with the orders of the Commissioner, or if the Commissioner shall find that the work was commenced before the bond required by Section 7 has been filed, the Commissioner shall order the work under the permit to be stopped, which order shall be effective until the next regular meeting of the Village Council. The Council may amend, set aside or confirm the stop order of the Commissioner and if the stop order is confirmed, the confirmation shall constitute a revocation of the permit.

Section 10. Sidewalk Maintenance. It shall be the duty of every owner and occupant to keep and maintain the sidewalks adjacent to his property in good repair and in a condition reasonable safe for public use. It shall be the duty of every owner and occupant to keep the sidewalks adjacent to his property free and clear from obstructions and accumulations of snow, ice, debris, litter or filth, and to clear and remove such obstructions and accumulations from such sidewalks within a reasonable length of time after the same shall have accumulated thereon.

Section 11. Construction or Clearing by Village; Assessment and Collection of Cost. If any owner or occupant shall fail to construct, rebuild or repair by the Village Council, as provided herein, or shall fail to clear and remove any obstructions or accumulations of snow, ice, debris, litter or filth, as required by this Ordinance, when ordered so to do by the Council, then it shall be the duty of the Commissioner to cause such work to be done and performed at the expense of the Village. The total amount of all of the expenses incurred in completing such work shall be reported by the Commissioner

Ordinance No. 33 Con't

(Section 11 con't) to the Village Council, and the Council shall report such amount, together with a penalty of 10 per cent in addition thereto, to the board of special assessors, to be levied by them as a special assessment upon the private property adjacent to such sidewalk, which special assessment shall be subject to review after proper notice has been given as in all other cases of special assessments provided for in Act 3, Public Acts of 1895, as amended; and such tax when confirmed shall be a lien upon such property the same as other special assessments, and the Council shall order the assessor to spread said amount, together with such penalty, and the same shall be collected in the same manner as other Village taxes; or, the Village may collect such amount, together with the penalty aforesaid, from the owner or occupant in an action of assumpsit, together with costs of suit.

Section 12. Contribution to Cost by Village. If any owner or occupant shall construct, a new sidewalk, where none existed before, within the time and in the manner required by the Village Council, as provided herein, and shall, within thirty days after completion of such work submit to the Council satisfactory evidence of the cost thereof, the Council shall pay to such owner or occupant, or to the person who actually did the work, if he has not been paid, from the general street fund, an amount equal to 50 per cent of such cost. All rebuilding or repairing of sidewalks shall be done at the expense of the property owner.

Section 13.. Grades and Lines. Whenever application shall be made for the construction, rebuilding or repair of any sidewalk for which no grade or line has been established, or when directed to do so by the Village Council, it shall be the duty of the Commissioner to cause such grades or lines to be surveyed, located and established, and stakes therefor to be set. The Council shall there upon establish such grades or lines as thus located, by resolution, and a record and diagram thereof shall be made in the Book of Street Records in the office of the Village Clerk, and the record thereof shall be prima facie evidence of all matters set forth therein. Grades shall be established to conform to the natural grade, slope and contour of the premises, having due regard for adjoining property and the grade of the adjacent street. When any grade has been established and improvements made with reference thereto, such grade shall not be changed thereafter by the Village Council without compensation to the owner of such improvement for all damages to such property resulting therefrom, to be ascertained as provided in Act 3, Public Acts of 1895, as amended.

Section 14. Prohibited Acts. It shall be unlawful for any person:

- (1) To intentionally injure or damage any sidewalk.
- (2) To cause, create or maintain any obstruction on any sidewalk without the consent of the Village Council.
- (3) To disturb, interfere with, damage or remove any barricade or light lawfully placed to warn of work in progress, defects, obstructions or excavations.
- (4) To paint, write or mark on, or otherwise deface any sidewalk.

Ordinance No. 33 Con't

(5) To throw, drop or leave junk, trash, litter, filth, waste matter or other debris upon any sidewalk.

(6) To do any work on any sidewalk without having a valid permit to do so when required by this Ordinance.

(7) To fail to erect or maintain barricades when required by this Ordinance.

(8) To erect or maintain any building or structure which encroaches upon the sidewalk.

It shall be unlawful for any owner or occupant to refuse or neglect to clear and remove any obstruction or accumulation of snow, ice, debris, litter or filth from any sidewalk adjacent to his property after having been ordered so to do by the Committee.

Each day that a violation continues shall be deemed a separate violation and may be punished as such.

Section 15. Penalties. It shall be a misdemeanor for any person to violate any of the provisions of this Ordinance, and upon conviction thereof, such person shall be punished by a fine of not more than Twenty-five (25.00) Dollars, or by imprisonment in the Mecosta County Jail for not more than 10 days, or both, such fine and imprisonment, in the discretion of the Court, for each violation.

Section 16. Repeal. Ordinance No. 19, "Relating to Cement Sidewalks," and Ordinance N. 24, being "An Ordinance Relative to the establishment of grades and the building and repairing of sidewalks thereon and to provide for the payment of the expenses thereof, and to Repeal all Ordinances in conflict with the terms of this Ordinance," together with all other ordinances inconsistent herewith, are hereby repealed.

Section 17. Effective Date. This Ordinance shall take effect on October 1, 1958.

The undersigned, being respectively the President and Clerk of the Village of Morley, hereby certify that the foregoing Ordinance was duly passed and enacted at a regular meeting of the Village Council on the 3rd day of September, 1958.

a/ Kenneth W. Turner
Village President

(SEAL)

a/ Margaret B. Buckley
Village Clerk

I, Margaret B. Buckley, Village Clerk of the Village of Morley, hereby certify that on September 4, 1958, I posted copies of the foregoing Ordinance in 3 of the most public places in the Village of Morley, to-wit:

THE MORLEY STATE BANK

FRANK'S SPORTING GOODS STORE

VILLAGE FIRE HALL

In Witness Whereof, I have hereunto set my hand and the seal of the Village of Morley this 4th., day of September 1958.

a/ Margaret B. Buckley
Village Clerk

(SEAL)