



CITY of NOVI CITY COUNCIL

Agenda Item 6
March 18, 2019

SUBJECT: Consideration to Introduce Ordinance No. 19-157.06, an ordinance to amend the City of Novi Code of Ordinances Chapter 31, "Streets, Sidewalks and Other Public Places", Article 1, In General, to amend and add definitions and amend and add requirements for placement and permitting of structures, equipment, facilities, and other installations in streets. **FIRST READING**

SUBMITTING DEPARTMENT: City Manager

CITY MANAGER APPROVAL: *OK*

BACKGROUND INFORMATION:

This is a "companion" ordinance to the proposed amendment to Chapter 32.5, Telecommunications, dealing with wireless communications facilities. It adds terms relating to the that proposed ordinances and confirms that the City's requirements for obtaining a permit to work in City rights-of-way will apply to such facilities.

RECOMMENDED ACTION: Approve Introduction of Ordinance No. 19-157.06, an ordinance to amend the City of Novi Code of Ordinances Chapter 31, "Streets, Sidewalks and Other Public Places", Article 1, In General, to amend and add definitions and amend and add requirements for placement and permitting of structures, equipment, facilities, and other installations in streets. **FIRST READING**

CITY OF NOVI
OAKLAND COUNTY, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES CHAPTER 31, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES", ARTICLE 1, IN GENERAL, TO AMEND AND ADD DEFINITIONS AND AMEND AND ADD REQUIREMENTS FOR PLACEMENT AND PERMITTING OF STRUCTURES, EQUIPMENT, FACILITIES, AND OTHER INSTALLATIONS IN STREETS.

THE CITY OF NOVI ORDAINS:

Section 1 of Ordinance.

That the Novi City Code, Chapter 31, Streets, Sidewalks and Other Public Places, Article 1, In General, Section 32-1, is amended to read as follows:

Sec. 31-1. - Construction within city street, highway, alley, parkway, sidewalk, bikepath, park, easement or other public place.

- (a) No person shall place any article, thing, or obstruction in any public right-of-way except under the conditions and in a manner permitted by this article. Further, it shall be unlawful for any person to make any excavation in, or to conduct any construction and/or maintenance activities within, over or below any public right-of-way, street, highway, alley, parkway, sidewalk, bikepath, park, easement or other public place under the jurisdiction of the city, or which is the location of improvements or infrastructure owned by the city, without first having obtained a written permit therefore from the city engineer. In those instances where emergency circumstances require immediate action, the city engineer may grant verbal permission, provided that a written application shall be submitted within twenty-four (24) hours.
- (b) The prohibitions contained within subsection 31-1(a) shall not apply to:
- (1) Work performed by the city.
 - (2) The construction of a single-family residential home for which a site restoration bond is required under section 26.5-34 of this Code, provided that a certificate of insurance meeting the requirements of this section is provided to the city engineer.
 - (3) De minimis activities such as the cutting of grass, ~~or~~ the removal of snow or the installation of a water sprinkling system for use with a single-family residential dwelling, or the expeditious moving of articles or things to and from abutting properties.
 - (4) The lawful parking of vehicles as authorized by this Code.
 - (5) The planting of landscaping or other installation as authorized by this Code.
- (c) The ~~director~~ Director of ~~public~~ Public services ~~Works~~ is authorized and directed to establish and promulgate reasonable rules and regulations for construction and/or maintenance within, over or below any street, highway, alley, parkway, sidewalk, bikepath, park or other public place under the

jurisdiction of the city. Such rules and regulations shall be published in a newspaper of general circulation within the city at least thirty (30) days prior to their proposed effective date.

- (d) Prior to approval of a permit for the installation or construction of a structure or other improvement under subsection (a) above, the ~~city~~City engineer~~Engineer~~ may require the applicant to execute a license agreement, in a form to be approved from time to time by the city council, including indemnification/hold harmless provisions and insurance requirements, before any such installation or construction.
- (e) It shall be unlawful for any person to violate the terms of rules and regulations duly adopted pursuant to section 31-18.

Section 2 of Ordinance.

That the Novi City Code, Chapter 31, Streets, Sidewalks and Other Public Places, Article 1, In General, Section 32-2, Definitions, is amended to amend the definition of Public right-of-way to read as follows:

Sec. 31-2. - Definitions.

Public right-of-way generally means the area on, above, or below a public roadway, highway, street, alley, easement or waterway that is dedicated, reserved, used, or open to use as a matter of right, for public travel, whether owned or controlled by, or under the jurisdiction of, the city or county, state, or federal government. For purposes of telecommunication facilities, public right-of-way is defined in section 32.5-28 of the Code, and for purposes of wireless facilities, public right-of-way is defined in section 32.5-52 of the Code.

Section 3 of Ordinance.

That the Novi City Code, Chapter 31, "Streets, Sidewalks and Other Public Places," Article 1, "In General," Section 31-3, is amended to add new subsections (e) and (f) to read as follows:

Sec. 31-3. – Application; review; bond.

(a) - (d) [Unchanged]

- (e) For purposes of subsection (a), the following right-of-way permits are authorized and required to be applied for and issued under this article prior to any construction in a public right-of-way:
 - (1) To construct telecommunication facilities in a public right-of-way that has been approved for access and use by a city permit under Article II in Chapter 32.5 of the Code.
 - (2) To construct, operate, use, and maintain wireless facilities in a public right-of-way issued under this article as provided in Article III in Chapter 32.5 of the Code.
- (f) A permit by the city under this article may be required even if the street or public right-of-way is under the control or jurisdiction of the county, state, or federal government.

Section 4 of Ordinance.

That the Novi City Code, Chapter 31, "Streets, Sidewalks and Other Public Places," Article 1, "In General," is amended to add a new Section 31-12, to read as follows:

Sec. 31-12. - Placement of and attachments to utility poles.

Utility poles and attachments to them may be placed in streets or public right-of-way by a public utility with a franchise right to do so, and as allowed by a right-of-way permit to construct, operate, use, and maintain wireless facilities under this article and Article III in Chapter 32.5 of the Code. Subject to what is allowed by any such franchise or permit, utility poles and attachments shall be as the Director of Public Works shall prescribe and shall be located thereon in accordance with the directions of the director. Such poles shall be removed or relocated as the Director shall from time to time direct, subject to any restrictions under the franchise or permit.

Section 5 of Ordinance. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the Novi Ordinance Code shall remain in full force and effect, amended only as specified above.

Section 6 of Ordinance. Savings.

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Section 7 of Ordinance. Severability.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 8 of Ordinance. Effective Date.

The provisions of this Ordinance are hereby ordered to take effect on the date provided by applicable law following publication.

Section 9 of Ordinance. Enactment.

This Ordinance is declared to have been enacted by the City Council of the City of Novi at a meeting called and held on the ____ day of _____, 2019, and ordered to be given publication in the manner prescribed by law.

AYES:
NAYES:
ABSTENTIONS:
ABSENT:

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND)

I, the undersigned, the qualified and acting City Clerk of the City of Novi, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the ordinance adopted by the City Council of the City of Novi at a meeting held on the ____ day of _____, 2019, the original of which is on file in my office.

Cortney Hanson, City Clerk
City of Novi

Introduced:
Adopted:
Effective:
Published: