

## CHAPTER 8

### STREETS AND SIDEWALKS

- 8.01 Street and Sidewalk Grades
- 8.02 Street and Sidewalk Excavations and Openings
- 8.025 Curb Cutting
- 8.03 Obstructions and Encroachments
- 8.04 Snow and Ice Removal
- 8.05 Sale or Display of Merchandise Prohibited
- 8.06 House Numbering System Established
- 8.07 Utility Extensions Required
- 8.08 Special Street Improvements and Assessments
- 8.09 Requests for Improvements
- 8.10 Penalty

8.01 STREET AND SIDEWALK GRADES.

(1) ESTABLISHMENT. The grade of all streets, alleys and sidewalks shall be established by the Village Board and shall be recorded by the Clerk-Treasurer in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. The grade of all streets having curb and gutter on the effective date of this Code are established at the level then existing.

(2) ALTERING GRADE PROHIBITED. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof unless authorized or instructed to do so by the Village Board.

8.02 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS.

(1) PERMIT REQUIRED. No person shall make or cause to be made any excavation or opening in any street, alley, highway, sidewalk or other public way within the Village without first obtaining a permit therefor from the Director of Public Works.

(2) FEE. The fee for a street opening permit shall be \$10 and shall be paid to the Clerk-Treasurer, who shall issue his receipt therefor.

(3) BOND REQUIRED. Before a permit for excavating or opening any street or public way may be issued, the applicant must execute and deposit with the Clerk-Treasurer an indemnity bond, approved by the Village President, in the sum of \$5,000 conditioned that he will indemnify and save harmless the Village and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Director of Public Works for a period of one year, and that he will pay all forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain-laying adopted by the Village Board, and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Village. Such bond shall also guarantee that if the Village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond, but it shall cover any and all accidents, injuries or violations during the period of excavation for which it is given. An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the Village.

(4) INSURANCE. Prior to commencement of excavation work, a permittee must furnish the Director of Public Works satisfactory written evidence that he has in force and will maintain during the life of the permit and the period of excavation, public liability insurance of not less than \$100,000 for one person, \$300,000 for one accident, and property damage insurance of not less than \$50,000.

(5) REGULATIONS GOVERNING STREET AND SIDEWALK OPENINGS.

(a) Frozen Ground. No opening in the streets or sidewalks for any purpose

## STREETS AND SIDEWALKS

shall be permitted when the ground is frozen, except where necessary as determined by the Director of Public Works.

(b) Removal of Paving. In opening any street or other public way, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing material and together with the excavated material from trenches shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.

(c) Protection of Public. Every person shall enclose with sufficient barriers each opening which he may make in the streets or public ways of the Village. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his agents or employees. Flashing amber barricade lights shall be lit and operating while the trench is open and until the street is restored and made passable for vehicular traffic, at least three lights to be placed at each end of the opening in the street or way and other lights sufficient in number and properly spaced to give adequate warning. Except by special permission from the Director of Public Works, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 500 feet where pipe has been laid. All necessary precautions shall be taken to guard the public effectually from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

(d) Replacing Street Surface. In opening any street or sidewalk, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material which, in the opinion of the Director of Public Works, is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street or sidewalk in perfect repair, the same to be so maintained for a period of one year. In refilling the opening, the earth must be puddled or laid in layers not more than 6 inches in depth and each layer rammed, tamped or flushed to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The Village may elect to have the Village make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening.

(6) EXCAVATION IN NEW STREETS LIMITED. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Director of Public Works shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate said street for a period of 5 years after the date of improvement or repaving unless in the opinion of the Director of Public Works an emergency exists which makes it absolutely essential that the permit be issued.

(7) EMERGENCY EXCAVATIONS AUTHORIZED. In the event of an emergency, any person owning or controlling any sewer, water main, conduit or utility in or under any street and his agents or employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit; provided that such person shall apply for an excavation permit not later than the end of the next succeeding business day and shall not make any permanent repairs without first obtaining an excavation permit hereunder.

(8) VILLAGE WORK EXCLUDED. The provisions of this section shall not apply to excavation work under the Director of Public Works by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets.

#### 8.025 CURB CUTTING

(1) PERMIT REQUIRED. No person, firm, or corporation shall disrupt a curb without first obtaining a separate permit for each disruption from the Department of Public Works.

(2) APPLICATION. To obtain a permit, the applicant shall file an application in writing on a form established by the Village for that purpose. There shall be no application or permit fee. Every application shall:

(a) Identify the contractor and/or subcontractor who is to actually perform the driveway work;

(b) Identify the owner of the property for whom the work is being performed;

(c) Submit plans for the work to be performed which shall include a description of the work to be covered by the permit for which application is made and a description of the location where such work is to be performed;

(d) Be signed by the owner or the agent of the firm that will actually be performing the work.

(3) PRE-INSPECTION. Prior to the issuance of any permit for a curb disruption, the location may be inspected by the Department of Public Works for the purpose of determining the most satisfactory location for the installation.

(4) EXPIRATION. Every permit issued by the Department of Public Works under the provisions of this section shall expire ninety days after issuance of the permit; however, in no case shall a project take longer than fifteen days to complete after starting work in the right-of-way.

(5) SUSPENSION OR REVOCATION. The Director of Public Works, or his/her designee, may in writing suspend or revoke a permit issued under this section whenever the permit was issued in error or on the basis of incorrect information supplied, or in violation of any other ordinance or regulation of the Village.

(6) SPECIFICATIONS AND WORK. All work shall conform to Village specifications on file in the Director of Public Works' office as required by the Department of Public Works after the preconstruction inspection. The Department of Public works, or a contractor approved by the Village Board, will perform all curb cutting and the cost thereof shall be invoiced to the property owner. All invoices shall be paid within 30 days of the date of mailing of the invoice. In the event a property owner fails to pay an invoice when due, the cost

of the work will be assessed against the property as a special charge pursuant to Wis. Stat. sec. 66.0627.

(7) **PERMITTEE'S PERFORMANCE RESPONSIBILITY.** In addition to all other requirements specified by this section, the permittee shall be responsible for restoration and cleanup of the street, sidewalk or curb to original or better condition immediately upon completion of the project. The permittee shall be responsible for defects or failure of the street, sidewalk or curb area for a period of one year following final inspection. For the purpose of this section, the word "permittee" means the contractor and the owner of the property for whose benefit the disruption work is being done, jointly and severally.

(8) **CURB OPENING LOCATIONS.** The location of each curb opening must be approved by the Department of Public Works. Application for a curb opening less than twenty feet from an intersection may only be approved under unusual circumstances. The Village reserves the right to deny any request to open any curb.

(9) **SPECIAL CONDITIONS.** At the discretion of the Director of Public Works, one or more of the following requirements may be specified when conditions require their use. Wherever such special conditions are required, they shall be set forth on the permit at the time of issuance, or as an amendment to the permit in those instances where conditions requiring their use become known after the permit has been issued.

(a) Cuts shall be made only in areas approved by the Director of Public Works.

(b) Signs, cones, barricades, and all other traffic control devices to protect and control pedestrian and vehicular traffic in the construction area shall be used as prescribed by the Director of Public Works.

(10) **ENFORCEMENT AUTHORITY.** Enforcement authority rests with the Director of Public Works or his/her designee which may include law enforcement personnel.

(11) **VIOLATION UNLAWFUL.** It is unlawful for any person, firm or corporation to disrupt a street or curb or sidewalk or cause the same to be done in violation of any of the provisions of this section. Both the contractor and owner will be held jointly and severally responsible and liable under this section. Any person, firm, or corporation violating any of the provisions of this section shall forfeit not more than one hundred dollars (\$100.00) and shall pay all the cost of restoring the curb. All costs, fees and expenses of such restoration may be assessed to said owner as a special charge pursuant to Wis. Stat. sec. 66.0627. Each such person is guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this section is committed, continued or permitted.

### 8.03 OBSTRUCTIONS AND ENCROACHMENTS.

(1) **OBSTRUCTIONS AND ENCROACHMENTS PROHIBITED.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in sub. (2).

(2) **EXCEPTIONS.** The prohibition of sub. (1) shall not apply to the following:

(a) Public utility encroachments duly authorized by state law or the Village Board.

(b) Temporary encroachments or obstructions authorized by permit granted

pursuant to §66.045, Wis. Stats.

- (c) Excavations and openings permitted under sec. 8.02 of this Code.

8.04 SNOW AND ICE REMOVAL.

(1) The owner or lessee of every lot or parcel of land in the Village in front of or abutting upon a sidewalk shall clear such sidewalk of snow within 24 hours after any given snowfall and shall cause such sidewalk to be kept clear of snow and ice.

(2) No person shall deposit or cause to be deposited any snow or ice taken and removed from his premises or elsewhere upon any sidewalk, alley, parkway, public place or street in the Village, provided, however, that the removal of snow from a sidewalk in front of or abutting his premises, as is required by sub. (1), may be deposited on the alley or street.

(3) The deposit of any snow or ice upon any sidewalk, alley or street of the Village contrary to the provisions of this section shall be and is declared to be a nuisance and, in addition to the penalty provided for violation of this section, the Village may summarily remove any snow so deposited and cause the cost of said removal to be charged to the owner of the property from which said snow or ice has been removed. If not paid within 30 days, such charge shall be extended upon the current or next tax roll as a delinquent property tax as provided in §66.60(16), Wis. Stats.

8.05 SALE OR DISPLAY OF MERCHANDISE PROHIBITED. No person shall display, purchase or sell, or offer to purchase or to sell, on any street, sidewalk, alley or other public place within the Village, anything of value or service of any kind, except in connection with a Village-wide enterprise or promotion of community trade.

8.06 HOUSE NUMBERING SYSTEM ESTABLISHED.

(1) The official house numbering system for the Village now on file in the office of the Clerk-Treasurer which assigns a number for each house, building and parcel of land within the Village is hereby adopted by reference. The Clerk-Treasurer is directed to establish and place on file a number for each parcel in new subdivisions.

(2) Each property owner shall affix to his house, or other building having a street address, evidence of his official number where it will be plainly visible from the street.

8.07 UTILITY EXTENSIONS REQUIRED. All utility, water and sewer mains and service laterals to the abutting property shall be installed before any street is permanently surfaced or resurfaced.

8.08 SPECIAL STREET IMPROVEMENTS AND ASSESSMENTS.

(1) GENERAL APPLICATION.

(a) The installation of any special street improvement shall be an exercise of the special taxing power or of the police power of the Village as may from time to time be determined by the Village Board and the property served shall be assessed pursuant to the provisions of Sec. 66.60 and 66.62 WI Stats.

(b) The total cost of any special improvement to be paid in whole or in part by

## STREETS AND SIDEWALKS

special assessment shall include the direct and indirect costs reasonably attributable thereto including, but not limited to, materials, supplies, labor, equipment, site preparation and restoration, damages occasioned by the special improvement, interest on bonds or notes issued in anticipation of the collection of assessments, and a reasonable charge for engineering, legal and administrative costs.

(c) The total assessment for any special improvement shall be based upon the total cost as defined in par. (b) above and shall be apportioned among the individual parcels benefited. Such apportionment shall generally be computed on a lineal frontage basis unless the Village Board otherwise determines that extenuating circumstances require a different method of assessment.

(d) Benefiting property owners shall pay their special assessments in full prior to November 1<sup>st</sup> of year of installation without interest, or spread the principal evenly over a period not to exceed three years with simple interest, computed at one percent above the Village's current borrowing rate (as determined by a local bank or current year loan), added to the unpaid balance with initial interest clock commencing on the first day of the month following installation of special assessment (check-list items and boulevard restoration need not be completed).

### (2) STREETS.

(a) Streets shall be constructed in accordance with specifications established by the Street Committee.

(b) Special assessments for all new streets in subdivisions hereinafter constructed shall be levied at 100% of the total cost of construction. (See also sec. 15.09 of this Code.) The cost of maintaining and resurfacing existing streets shall be borne by the village.

### (3) CURB AND GUTTER.

(a) Curb and gutter shall be installed in accordance with specifications established by the Street Committee.

(b) Special assessments for all new curb and gutter shall be levied at 100% of total cost, and replacement of curb and gutter shall be levied at 50% of total cost, however, new curb and gutter on existing streets shall be levied at 50% of total cost.

### (4) SIDEWALKS.

(a) Statute Adopted. The provisions of Chapter 61.36, Wisconsin Statutes, relating to sidewalks is hereby adopted and by reference made a part hereof as if fully set forth herein, except as to any portion thereof which may be in any way changed or supplemented herein, in which case such changed or supplemented provisions set forth herein shall be applicable.

(b) Owner to Construct. It shall be the duty of the abutting owner to build and construct sidewalks as required by the Village Board along or upon any street, alley or highway in the Village of Belmont and to pay the entire cost thereof.

(c) Village to Maintain and Repair. It shall be the responsibility of the Village to maintain, replace and repair damaged sidewalk. The Public Works Director is authorized to direct an annual repair program consistent with budgetary appropriations. However, the property owner shall be responsible for sidewalks damaged by the property owner, agent or contractor working on behalf of the property owner. Unless waived specifically by the Village Board on a case-by-case basis, the owner of tax-exempt property shall continue to bear the responsibility for sidewalk repairs, maintenance and construction.

(d) Permit Required. No person shall hereafter lay, remove, replace or repair

## STREETS AND SIDEWALKS

any public sidewalks within the Village of Belmont unless he is under contract with the Village to do such work or has obtained a permit therefor from the Director of Public Works at least seven days before work is proposed to be undertaken. No fee shall be charged for such permits.

(e) Sidewalk Grade. The grade of all sidewalks shall be established by the Director of Public Works before any excavation or construction work is performed, and no person shall alter the grade of any sidewalk unless authorized by the Director of Public Works.

(f) Specifications. The Director of Public Works is hereby authorized to prepare specifications for all work to be done concerning the construction, removal, replacement or repair of sidewalks, same to be subject to approval by the Village Board and when so approved shall be applicable for all of such sidewalk work. The specifications shall be kept on file in the office of the Village Clerk. Sidewalks shall be a minimum of 3' in width.

(g) Installment Payments. The expenses of laying, removing and repairing sidewalks to be charged against each lot owner under the provisions of Section 66.615(3)(f) of the Wisconsin Statutes shall, where the amount thereon is \$100 or over, at the option of the property owner, be payable in three annual installments, such deferred payments to bear interest at the rate established by the Village Board. Each such installment shall be entered on the tax roll in the manner provided by state statutes for the three successive years to which such installment payments shall apply. After sidewalks have been laid, removed or repaired and when the expenses of such laying, removing or repairing are to be charged against each lot, the Village Board shall, by resolution, set the time or times at which payment or payments for such work shall be made. Where an option for installment payments shall be exercised the funds to pay for such construction or repairs, or the funds to reimburse the account of the Village which may have paid for same, shall be taken from the General Fund and such installment so paid shall be returned to said General Fund.

(h) Entry on Tax Roll. The Village Board may, without any notice or hearing of any kind, authorize the entry of such construction or repair expense in the tax roll as a special tax against the property subject thereto whenever notice thereof is in writing waived by the owners of the property affected thereon.

(i) Policy Regarding Construction, Removal, Replacement or Repair. The Village Board shall give the highest priority to repairs to existing sidewalks. Sidewalks may be built on one or both sides of the street and may not necessarily be continuous on one side if prudent to avoid obstacles.

8.09 REQUESTS FOR IMPROVEMENTS. Requests or petitions by Village property owners for new streets, curb and gutter, and sidewalks shall be presented to the Village Board on or before November 1 to be considered for Installation in the following year.

8.10 PENALTY. Any person who violates any provision of this chapter or any order, rule or regulation made hereunder shall be subject to the penalty set forth in the VILLAGE OF BELMONT SCHEDULE OF PENALTIES which is part of the Village Ordinances or such other penalty or amount as the Court or Village shall deem appropriate in accordance with Section 20.04.