

## CHAPTER 2

### Streets and Sidewalks

#### **SEC. 6-2-1                    REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.**

No owner or occupant shall allow the sidewalk abutting on his premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Director of Public Works, the Director may cause the same to be done and report the cost thereof to the City Comptroller who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.60(16), Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

#### **SEC. 6-2-2                    SIDEWALK CONSTRUCTION AND REPAIR.**

(a)    **COST OF REPAIR, MAINTENANCE OR RECONSTRUCTION.**

- (1)    It shall be the policy of the City of Menasha that all reconstruction, repair or maintenance work on the existing sidewalks within the corporate limits of the City of Menasha shall be borne from the general funds and shall not be assessed against the property of the owner.
- (2)    Sidewalks shall be located in such places as designated by the Board of Public Works. No person shall remove any sidewalk without the permission of the Director of Public Works.

(b)    **CONSTRUCTION AND REPAIR REGULATED.** No person, whether owner, builder or contractor, shall build any new sidewalk or repair or renew, or cause to be built, repaired or renewed any existing sidewalk contrary to the provisions of this Chapter.

(c)    **STATE LAW APPLICABLE.**

- (1)    The Board of Public Works is empowered and directed to proceed with the construction and repair of concrete sidewalks without advertising for bids upon such work. The Board shall advertise for bids upon all materials and supplies, the estimated cost of which shall exceed Ten Thousand Dollars (\$10,000.00). Said work shall not be done on any street until specifically ordered as required by law.
- (2)    In addition to the provisions of this Chapter, the provisions of Section 66.615, Wis. Stats., so far as applicable to this City, shall govern the construction, improvement and repair of sidewalks.

(d)    **SPECIFICATIONS.** Sidewalks shall be constructed in accordance with the specifications for standard sidewalks adopted by the Board of Public Works and on file with the Director of Public Works unless such ordinance or resolution establish different standard therefor. The standard width of sidewalks on residential streets shall be four (4) feet unless otherwise directed by the Board of Public Works. Sidewalks in commercial areas, or areas surrounding schools and churches and other areas where large groups of people congregate, shall have a minimum width of five (5) feet or as otherwise directed by the Board of Public Works.

(e)    **FAULTY WORK CONDEMNED.**

- (1)    Notice to Remove. Whenever any person, firm or corporation shall repair or cause to be repaired an existing sidewalk contrary to the terms of this Chapter, or shall construct or cause to be constructed a sidewalk of substantially different material than as herein provided, or in such other manner that the same cannot be made to

conform to the requirements of this Chapter or to any requirement of the Board of Public Works without completely reconstructing such sidewalk or some part thereof, or is defective, insufficient or dangerous to travel, the Board of Public Works is empowered to and shall condemn such sidewalk or such part thereof and shall give notice in writing to such person, firm or corporation of such action and that within ten (10) days after receipt of such notice the concrete sidewalk or part thereof shall be removed and rebuilt in accordance with the terms of this Chapter.

- (2) City May Repair; Cost. In case such person, firm or corporation shall fail or neglect for twenty (20) days after the service of such notice to comply with the same, the Board of Public Works shall proceed in the manner provided by law to cause such sidewalk or part thereof to be removed and a new concrete sidewalk to be built in place thereof and the cost of such work shall be charged to the abutting property, if the cost cannot be recovered from the contractor.
- (3) Rebuilding Existing Sidewalks. Whenever any existing sidewalk being of other material than concrete shall hereafter be condemned by the Board of Public Works, the sidewalk shall be repaired or reconstructed of concrete in the manner hereinafter prescribed in this Chapter.

(f) **PERMITS FOR SIDEWALK CONSTRUCTION.**

- (1) Permit Required; Application. No sidewalk shall be constructed by any person, firm or corporation without an application in writing made and filed with the Board of Public Works for permission to construct the same, to be signed by the owner of the premises, his agent or contractor, stating the length of said proposed walk, any openings to be left therein or thereunder and the means proposed to cover or protect the same, and designating the premises in front of which it is proposed to construct the walk, and the nature of the principal buildings thereof.
- (2) Issuance of Permit.
  - a. Upon the filing of such application, the Board of Public Works shall determine the width of the walk, the thickness of the several sections thereof, and information relating to any openings in or under the walk and the means of covering or protecting the same, and shall thereupon issue a permit in writing for the construction of the walk.
  - b. On all streets improved with a permanent curb the said permit shall state the distance from the curb to the inner line of the proposed walk and any direction that the Director of Public Works may deem necessary to give concerning the grade thereof. Upon all other streets the Director of Public Works shall, upon the granting of the permit, determine the lines and grades of such walk and cause proper stakes to be set to designate the same on an offset line, and until such stakes are so set the construction of such walk, except the excavation therefor, shall not be commenced.
- (3) Lights and Barriers. Any person who shall construct or cause to be constructed any concrete sidewalks, including all contractors performing or supervising such construction, shall cause sufficient barriers to be erected and maintained during the period of construction, and a red light at each end of the sidewalk to be placed and kept burning during each night of such period to the satisfaction of the Board of Public Works.

(g) **DAMAGE TO SIDEWALK.**

- (1) No person shall, without authority in writing from the Director of Public Works, interfere with, alter the position or level of, remove or destroy any line or grade stakes set by the Director of Public Works.
- (2) No person shall injure or tear up any side or crosswalk or shall injure or dig any holes, ditch, or drain in or across any street, highway, lane or alley without first having obtained the consent of the Common Council. Violations shall be subject to a forfeiture hereinafter set forth in this Code.
- (3) No person shall pass over or upon any cement sidewalk or crossing while the same is in the process of construction or until the same shall become thoroughly dry and hardened. Barriers shall be placed around new sidewalks by workers constructing the same to prevent persons from passing over or upon the sidewalk under construction. It shall be unlawful for any person or corporation to remove said barriers except those having lawful authority so to do.
- (4) It shall be unlawful for the owner as well as any other person or corporation to at any time mark, mar, deface, injure, mutilate, destroy, print or paint any letters names or characters whatsoever on any cement sidewalk or crossing now or hereafter to be built and constructed in the City of Menasha.

(h) **SIDEWALK POLICY – EXISTING DEVELOPMENT.**

- (1) Sidewalks shall be mandatory on both sides of all arterial and collector streets as listed in the "State Mileage Certification Report." Installation shall take place at the time the streets are constructed to urban sections (curb and gutter, storm sewer, etc.).
- (2) Sidewalks shall be mandatory on streets where the total density (including dedicated right-of-way) on the abutting properties is greater than 3.5 units per acre and average daily traffic is greater than 500 vehicles per day.
- (3) Sidewalks shall be mandatory on any side of an individual block when 50% or more of the length of said block has sidewalk constructed thereon.
- (4) The minimum vehicle volume warrant for installation of sidewalk shall be 500 cars per day.
- (5) Nothing in the above provisions providing for the installation of sidewalks in the existing development shall prevent the Board of Public Works from requesting sidewalk construction if traffic engineering or any combination of pedestrian counts and traffic volumes demonstrate a hazardous condition which would warrant sidewalk installation.

(i) **SIDEWALK INSTALLATIONS IN THE NEWLY PLATTED SUBDIVISIONS**

- (1) Sidewalks shall be mandatory on both sides of the street on all plats submitted for approval to the Plan Commission. Exceptions may be granted only in the following instances:
  - a. Industrial and commercial subdivisions;
  - b. In residential cul-de-sac streets (less than 500 feet in length) and other streets of limited continuity where the density of development is less than 6 units per acre.
  - c. Neighborhood residential streets where topography, trees, insufficient right-of-way, or other unique circumstances make placement of walks on one or both sides of the street impractical and where the absence of such walks will not substantially interrupt pedestrian flow within the block or to parks, schools, or other major pedestrian attractors.

- d. Where there is a dedication of a pedestrian right-of-way or other alternate means of pedestrian circulation.
  - e. On neighborhood residential streets, where proposed total density (including dedicated right-of-way) is less than 3.5 units per acre and average daily traffic would not be such to cause sidewalk installation based on traffic engineering warrants.
  - f. Nothing in this ordinance prohibits the installation of sidewalks upon request of the adjoining property owners.
- (j) Except in subdivisions currently under construction, streets without sidewalks as of the effective date of this ordinance shall not be required to have sidewalks installed pursuant to the terms of sec. 6 – 2 – 2.
- (k) **ILLEGAL SIDEWALKS.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and one which is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

State Law Reference: Section 66.615, Wis. Stats.

**SEC. 6-2-3 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS.**

- (a) **PERMIT REQUIRED.**
- (1) No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ground, public sidewalk or City-owned easement within the City of Menasha without a permit therefor from the City Department of Public Works.
  - (2) A permit is required prior to performing any of the following work in the street right-of-way:
    - a. Excavation
    - b. Barricading
    - c. Construction of all types
  - (3) Permits shall be obtained from the City Engineering Department. Such permits shall be issued upon filing an approved plan or diagram or signed statement detailing the location and nature of the street opening and the payment of a fee hereinafter listed. For emergency work, the required permit shall be obtained the next following business day.
- (b) **EXCEPTION.** The provisions of this Section shall not apply to City excavation work done, including work by City utilities, under the direction of the Director of Public Works.
- (c) **VALIDITY OF PERMIT.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided herein for pavement replacement. No permit fees shall be paid by an agency of the City.
- (d) **CITY STANDARDS; FEES.**
- (1) City Standards. All street work shall be performed in accordance with the current standard specifications for street openings. Any damaged curb and gutter, sidewalk

or grass-covered area shall be restored to the condition prior to damage.

- (2) Fees. Fees for the permits described above shall be established by the Board of Public Works.
- (e) **INSURANCE REQUIRED.** A permit shall be issued only upon condition that the applicant submit to the Director of Public Works satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000. The policy shall name the City of Menasha as the third party insured.
- (f) **BOND.**
  - (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement that he will indemnify and save harmless the City of Menasha 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 pursuant to Section 6-2-4 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 (1) year, and that he will pay all fines of forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Common Council 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 City. Such statement shall also guarantee that, if the City 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 (1) year.
  - (2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The City shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
  - (3)
    - a. The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work.
    - b. Before permission shall be granted, the applicant shall deposit with the City Treasurer to insure performance of restoring such streets and terraces to their original conditions the sum to be determined as follows:
      1. If the street in such excavation is surfaced with portland cement concrete, the sum of Two Hundred Dollars (\$200.00).
      2. Dirt or gravel, the sum of Fifty Dollars (\$50.00).
      3. All other roads, the sum of One Hundred Dollars (\$100.00).
      4. Terraces, the sum of Thirty-five Dollars (\$35.00).
    - c. In lieu and instead of the deposit required, any person may execute and file with the City Clerk, and keep in effect a surety bond in the sum of Ten Thousand Dollars (\$10,000.00), with a corporation surety conditioned upon the timely and faithful performance of all conditions prescribed by law and all laws and ordinances applicable in respect to all permits issued such person.
    - d. Public utilities under the jurisdiction of the Public Service Commission doing work in the streets and terraces of the City of Menasha shall be exempt from

filing such surety bond but their contractors or subcontractors shall not be excluded.

- (4) Whenever the Director of Public Works shall find that any such work has become defective within two (2) years of the date of completion, he shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Director of Public Works to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.
- (5) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Common Council as necessary to adequately protect the public and the City.
- (g)
  - (1) Any property owner may repair or replace his sidewalk or driveway approach provided that the work is done under the supervision of the Department of Public Works and that the provisions of Section 6-2-3 are complied with. Such owner must obtain a permit, but need not furnish a bond and insurance. The deposit provisions of 6-2-3(f)(3) will apply. Such deposit will be refunded upon final inspection by the City Engineering Department.
  - (2) Any property owner may construct a new sidewalk or driveway approach provided that the work is done under the supervision of the Department of Public Works and that the provisions of Section 6-2-3 are complied with. Such owner must obtain a permit, but need not furnish a bond and insurance. The deposit provisions of 6-2-3(f)(3) will apply. Such deposit will be refunded upon final inspection by the City Engineering Department.

#### **SEC. 6-2-4 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.**

- (a) **FROZEN GROUND.** No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen except where it is determined by the Director of Public Works to be an emergency excavation.
- (b) **NOTICES.**
  - (1) Notices to Fire, Police and Sheriff's Departments. The contractor shall give notice in writing to the Fire Department and Police Department at least three (3) days before excavating in or obstructing traffic on any City street. If on County Trunk Highways or State Trunk Highways, three (3) days written notice shall be given to the County Sheriff, County Highway Commissioner and State Highway Commissioner.
  - (2) Notice to Utilities, City Bureaus and Governmental Units. The contractor shall notify all utilities, City bureaus and governmental units whose property may be affected by the contractor's operations at least three (3) days before breaking ground. The contractor shall not interfere with said property until the expiration of the time specified in said notice and then only by permission of the Director of Public Works, nor shall the contractor hinder or interfere with any person in the protection of such work, or with the operation of buses, at any time except with the permission of the Director of Public Works.
- (c) **PROTECTION OF EXISTING SURFACE.** Conduits or pipes installed under driveways, sidewalks, curbs or permanent pavements shall be augured or bored, except when permitted to do otherwise by the Director of Public Works or his authorized representative.

- (d) **REMOVAL OF PAVING.** In any opening or excavation all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing materials and together with the excavated materials from the opening shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water along gutters.
- (e) **PROTECTION OF PUBLIC.**
- (1) The contractor shall furnish and erect neat and substantial fences or barricades around roadway obstructions, shafts, trench crossings and other excavations as prescribed by law and as may be further required for the protection of the public and of the work. He shall supplement such protective fences or barricades by the use of acceptable lights and flags, watchmen, signs and other measures that may be necessary to afford proper and sufficient protection.
  - (2) Whenever the contractor shall have received a permit to work on any street, alley or public right-of-way open to travel, he shall immediately upon commencing work on such thoroughfare, furnish, erect and maintain substantial barricades across the property affected and shall furnish, post and maintain construction warning signs thereon. Detour signs, when required, shall also be posted and maintained at immediately adjacent street and alley intersections for the convenience and guidance of traffic. Flashing amber lights shall be mounted on all barricades placed within the roadway that are present at night or when visibility is poor.
  - (3) All barricades used by the contractor shall conform to Part VI of the Wisconsin Manual on Uniform Traffic Control Devices and shall have a readable name of the contractor along with the telephone number at which he or his responsible superintendent can be contacted.
  - (4) Any barricading or detouring for work performed in through streets shall be approved by the Director of Public Works and Chief of Police prior to commencement of work.
  - (5) Except by special permission from the Director of Public Works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.
  - (6) All necessary precautions shall be taken to guard the public effectively 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 City 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.
  - (7) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
  - (8) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workers or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation.
- (f) **SAFEGUARDING THE WORK AND THE WORK SITE.** Whenever, in the judgement of the City, the work and work site are not sufficiently safeguarded, the City may order

additional protection or in the event that there is not sufficient time for the contractor to provide such safeguards, the City may have the work and work site safeguarded by others and charge the cost to the contractor.

(g) **REPLACING STREET SURFACE.**

- (1) In opening any public street, public alley, public sidewalk, public way, public easement, or public ground, 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.
- (2) The Director of Public Works may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.
- (3) In refilling the opening, the earth must be puddled or laid in layers not more than six (6) inches in depth and each layer rammed or tamped, or with the permission of the Director of Public Works flushed, to prevent after-settling. All excavations in any type roadway surface, sidewalk, apron or travel area shall be backfilled with approved granular material. "Blow sand" is not acceptable, and will be ordered removed at the contractor's expense.
- (4) When performing trench construction, the permittee shall utilize trench protection practices, including sheathing, shoring and bracing, in accordance with regulations established by the Wisconsin Department of Industry, Labor and Human Relations. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall the street pavement be permitted to overhang the excavation.
- (5) The City may elect to have the opening for any street or sidewalk repaired by the City, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening.

(i) **BACKFILLING STANDARDS.**

- (1) Jetted Backfill.
  - a. Trenches shall be settled by flooding with water after backfill has been placed. The hose shall have a diameter of two (2) inches and a minimum length of two-thirds (2/3) the depth of the trench to the top of the conduit. The sewer trench shall be at least six (6) inches lower than the surrounding terrain at the time of jetting. Insertions shall be made at five (5) foot intervals along the trench and jetted until water ponds on the trench surface.
  - b. The nozzle shall be inserted as far as possible without damaging the pipe foundation. Depression caused by settling shall be filled by the contractor at his expense.
  - c. Water for jetting shall be furnished by the contractor at his expense.
- (2) Tamped Backfill. Where tamping is required, backfill material shall be placed in six (6) inch to twelve (12) inch layers from the top of the conduit and mechanically tamped prior to adding more fill. All fill shall be uniformly compacted to a dry density which is at least ninety percent (90%) of the maximum dry density for material used, as determined by laboratory compaction test at optimum moisture content. Compaction tests may be made in accordance with ASTM C-1557, Method D, at the expense of the City.
- (3) Excavated Material Backfill.

- a. Where excavated material is used for backfill, the contractor shall mechanically tamp the excavated backfill material in six (6) inch to twelve (12) inch layers or jet according to Subsection (i)(1) above.
  - b. Trenches backfilled with excavated material during winter months shall be top dressed in spring after the frost has left the soil.
- (j) **BACKFILLING NOTICE.** The Director of Public Works shall be notified at least four (4) hours prior to backfilling and/or restoring the surface.
- (k) **VALIDITY OF PERMIT.** Unless the work shall be commenced within thirty (30) days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Director of Public Works may extend the time limitation for good cause.
- (l) **EMERGENCY EXCAVATION.** In the event of an emergency any person, firm or corporation, owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees may take immediate proper emergency measure to remedy dangerous conditions for the protection of property, life, health, or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day, shall notify the City Police Department immediately and shall not make any permanent repairs without first obtaining an excavation permit.
- (m) **SURFACING MAINTENANCE.** The permit holder shall be responsible for the excavation, and shall have the temporary patch in place within five (5) working days from the date of issuance of the permit, and in accordance with the requirements of Subsection (n). In the event the permit holder fails to comply with these patching requirements, the City will make one courtesy phone call to notify the permit holder of any deficiencies. Failure to correct any deficiencies by noon the following day will result in the City performing the necessary work and billing a rate pursuant to a schedule on file with the Director of Public Works. No further permits will be issued to such permit holders until such bills have been paid for. Normal maintenance of temporary patches will be done by the City at no charge to the permit holders. Where excessive settlement occurs, the permit holder will be notified to perform the necessary maintenance. If the repairs are not made in the time specified above, the City will do all necessary work and charge the permit holder as specified above.
- (n) **SURFACE REPAIR.**
  - (1) Grass, Terraces and Boulevard Areas. The contractor shall be responsible for permanent repair to all grass surface areas including reseeding or sodding.
  - (2) Pavements, Sidewalks, Aprons, Etc. The contractor at his expense shall cap the trench areas with three (3) inches of asphalt cold patch material on top of three-fourths (3/4) inch road stone which extends to the earth subgrade.
- (o) **SURFACE CUTTING.**
  - (1) Concrete, Asphalt, Asphalt Over Concrete.
    - a. The extent of concrete removal within a given section of pavement is to be determined by a field evaluation of existing conditions, i.e., joints, structures, etc., thickness, reinforcing (if any), subsurface conditions and any other factors pertinent to making a sound engineering evaluation. Such evaluation shall be made by the Director of Public Works or his authorized representative.
    - b. All excavations in concrete or asphalt pavements will be saw-cut before final patching is completed. When a pavement breaker is used to break the pavement before excavation, the area must be outlined by holes drilled on approximately six (6) inch centers. Saw cutting not done by the permit

holder will be done by the City when the final patch is made and included in the bill. If the concrete base is disturbed under the pavement adjoining the excavation, the City will remove asphalt surfacing to a solid base up to lines forming a neat geometric patch.

- (2) Graveled, Oiled and/or Road Mix Surfaces. Road surfacing cuts may be made by air hammer or hoe, the same size as excavations, and shall be straight and rectangular in shape.
- (3) Driveways and Sidewalks.
  - a. In concrete driveways, a minimum width of three (3) feet shall be removed. If the distance between the back of curb and the sidewalk is six (6) feet or less, the entire driveway shall be removed. All cuts shall be made with a concrete saw.
  - b. Driveway surfaces shall be restored to the original surface condition except in case of concrete or hot asphalt driveways or sidewalks. Permanent surfaces will be placed by the City and costs billed to the permit holder.
- (p) **CLEAN WORK SITE.** All areas shall be neatly maintained and clean during and after construction. Road surfaces shall be protected to prevent damage by construction machinery. Should the contractor fail to maintain an acceptable site, the City may order the necessary cleanup work to be done and bill the permit holder.
- (q) **COMPLETION NOTIFICATION.** When the work has been completed and the temporary patch is in place, the permit holder shall notify the Department of Public Works.
- (r) **PERMANENT SURFACE REPLACEMENT.**
  - (1) All permanent surfaces of concrete or hot asphalt will be installed by the City. Repairs will be made following one freeze-thaw cycle. The City will perform the repair work under an annual contract bid for the specific purpose of repairing various types of surface cuts, or with City forces.
  - (2) Costs of these repairs will be billed to the permit holders upon completion of the repair.
  - (3) The contractor shall notify the Department of Public Works at which time a representative of the Department will meet with the contractor to make and measure the area disturbed for billing purposes.
  - (4) A bill will then be prepared using the cost plus fifteen percent (15%) and sent to the contractor from the Finance Department. Payment of this bill shall relieve the contractor of his responsibility in the event of excessive settlement.
- (s) **BACKFILL AND CARE OF TERRACES.** When an excavation is made in a boulevard or terrace of the public right-of-way, the permittee shall backfill and tamp in layers not exceeding twelve (12) inches, and shall place a minimum of four (4) inches of good topsoil on the surface. The area shall be leveled to coincide with adjacent turf and shall be seeded with a mixture and at a rate meeting the approval of the Director of Public Works. The terrace work shall be completed within two (2) weeks of the completion of the work except that the Department of Public Works Inspector may waive this requirement during the months of November through March. No further permit may be issued to anyone who has not completed this work in accordance with this Section.
- (t) **EXCAVATION IN NEW STREETS LIMITED.** Whenever the Common Council determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination by the Common Council, the Director of Public Works shall notify in writing each person, utility 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 thirty (30) days. After such permanent improvement or repaving, no permit shall be used to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Director of Public Works, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and TV cable lines in street terraces.

#### **SEC. 6-2-5 OBSTRUCTIONS AND ENCROACHMENTS.**

- (a) **OBSTRUCTIONS AND ENCROACHMENTS PROHIBITED.** No person shall encroach for a period in excess of five (5) minutes, 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 Subsections (b) and (c) or where a permit shall first be obtained from the Police Department of the City. The Police shall designate the time and hour such obstruction can take place.
- (b) **EXCEPTIONS.** The prohibition of Subsection (a) shall not apply to the following:
  - (1) Public utility encroachments duly authorized by State Law or by the Common Council.
  - (2) Goods, wares, merchandise or fixtures being loaded or unloaded which do not obstruct the width of a sidewalk by more than three (3) feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than three (3) hours.
  - (3) Temporary encroachments or obstructions authorized by permit under Section 6-2-6 of this Section pursuant to Sec. 66.045, Wis. Stats.
  - (4) Building materials for the period authorized by Section 6-2-6(d).
  - (5) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.
- (c) **REMOVAL BY CITY.** In addition to any other penalty imposed, if the owner or occupant of the premises maintaining a prohibited obstruction or encroachment shall refuse or neglect to remove such unlawful obstruction or encroachment after such notice from the Director of Public Works or Police Department to do so, it shall be the duty of the Director of Public or Police Department to remove such obstruction or encroachment and make return of the costs and expenses thereof to the City Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

#### **SEC. 6-2-6 STREET PRIVILEGE PERMIT.**

- (a) **WHEN REQUIRED.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City may be granted to applicants by the Director of Public Works for the purpose of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Director of Public Works may request advisory recommendations from the Chief of Police and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit.
- (b) **BOND.** No street privilege permit shall be issued until the applicant shall execute and file with the City Clerk proof of liability insurance coverage. The insurance coverage shall be an

amount of not less than \$100,000 per occurrence and the policy shall specifically state that it includes coverage for the fixtures located on the City sidewalks, streets or other public ways.

In addition, the City shall be identified as a third-party insured. The applicant shall agree to indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations.

- (c) **FEE.** The fee for a street privilege permit shall be in the sum of Ten Dollars (\$10.00), plus any actual City costs.
- (d) **CONDITIONS OF OCCUPANCY.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Director of Public Works for violation thereof:
  - (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
  - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
  - (4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Chief of Police and Director of Public Works, shall continue during all hours of the day and night.
  - (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
  - (6) Buildings shall be moved only in accordance with the route prescribed by the Director of Public Works and Chief of Police.
  - (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (e) **TERMINATION.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Director of Public Works.
- (f) **REMOVAL BY CITY.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Director of Public Works to do so, it shall be the duty of the Director of Public Works to remove such obstruction and make return of the costs and expenses thereof to the City Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

State Law Reference: Section 66.045, Wis. Stats.

- (a) **REMOVAL FROM SIDEWALKS.** The owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases to accumulate on said sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four (4) feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians.
- (b) **NOTICE AND REMOVAL OF SNOW FROM SIDEWALKS.** If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection (a), the Director of Public Works shall take the following action:
- (1) Hazardous Conditions. If the Director of Public Works determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed within two (2) hours from the delivery of the notice. In the event the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the Director of Public Works shall immediately cause the removal of the snow and/or ice. The Director of Public Works shall send a written notice to the last-known address of the property owner notifying him that a hazardous condition existed which required immediately abatement.
  - (2) Non-Hazardous Conditions. If the owner, occupant or person in charge of the subject parcel or lot fails to remove the snow within the time period established in Subsection (a), the Director of Public Works shall cause the issuance of a written notice to said owner, occupant or person in charge of the subject parcel or lot directing the responsible person (as defined) to remove said snow and ice no later than twenty-four (24) hours following the issuance of said notice. The written notice shall be hand delivered when possible or mailed to the last-known address of the owner of the subject property as identified on the records in the City Clerk's office.
  - (3) Snow and Ice Not to Encroach. No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcel or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the City right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- (c) **ENFORCEMENT.** The Director of Public Works, his designee and all sworn police officers are hereby authorized and directed to enforce the provisions of this Section.
- (d) **CONTINUED VIOLATIONS.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this Section.
- (e) **ABATEMENT AFTER NOTICE.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (b)(1) and (2) after receiving a written notice shall result in the Director of Public

Works causing the removal of said snow and/or ice.

- (f) **EXPENSE.** An account of the expenses incurred by the City to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within thirty (30) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Comptroller shall enter those charges onto the tax roll as a special tax as provided by Section 66.615(5), Wis. Stats.
- (g) **PENALTY.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

State Law Reference: Sections 66.60(16) and 66.615(3)(f) and (5), Wis. Stats.

### **SEC. 6-2-8 VAULTS.**

All new vaults shall be prohibited and existing vaults shall be maintained in conformance with this Section. All vaults under sidewalks in the City shall be constructed of brick, concrete block, or poured concrete. The surface opening into the street shall be within three (3) feet of the outer edge of the sidewalk, or the curb. The slab over such vault shall be able to withstand a load of two hundred fifty (250) pounds per square foot of slab area. The owner of any lot or parcel of land adjoining such vault shall maintain such vault and slab over in a safe condition and at his own expense.

### **SEC. 6-2-9 BOARD OF PUBLIC WORKS HOME RULE PROVISIONS.**

The City of Menasha hereby elects pursuant to Chapter 66 of the Statutes of Wisconsin to provide that the actions of the Board of Public Works shall be subject to Council approval and mayoral veto.

### **SEC. 6-2-10 PLACING OF NUMBERS ON RESIDENCES AND PLACES OF BUSINESS.**

- (a) Each house or place of business shall be assigned a numerical number.
- (b) It shall be the duty of the property owner to place such assigned number on each residence and place of business in the City, observable and readable with the naked eye from the street right-of-way.
- (c) Nothing in this Section shall prohibit numbers to be in script form in addition to the numerical numbers if the property owner desires.
- (d) Upon certification to the City Clerk by the proper officials that residences and places of business are unnumbered, the City Clerk shall notify each property owner of the contents of this Section.