

## CHAPTER 12

### Streets and Sidewalks

- 12.01 Street Openings
- 12.02 Digging up Streets, Etc., Without Permit
- 12.03 Interfering with Public Improvements Prohibited
- 12.04 Grades
- 12.05 Permits for Sidewalk Construction, Openings, Etc.
- 12.06 Culverts for Driveways and Walks
- 12.07 Snow and Ice Removal
- 12.08
- 12.09 Watercourses
- 12.10 Erection of Poles in Streets; Permit Required
- 12.11 Selling Within Streets Prohibited
- 12.12 Penalty
- 12.13 Forestry Planting and Maintenance

#### 12.01 STREET OPENINGS.

- (1) **Permit Required.** No person shall make any excavation or opening in any street (between curb lines), alley, or public place unless he shall first have secured a permit therefore from the Plumbing Inspector or the Superintendent of Public Works.
- (2) **Granting of Permits.**
  - (a) For Other than Public Utilities. To any person other than a public utility, upon application and payment of a fee of \$150.00 for under 50% of the road width or \$200.00 for over 50% of road width, and upon showing that an emergency or need exists, the Plumbing Inspector or the Superintendent of Public Works may issue a permit to excavate or disturb the surface of any street, alley, or public place between curb lines. The permit shall state the name of the applicant, the nature, purpose, and extent of the excavation or disturbance of the street surface, the location thereof, and the kind or kinds of pavement to be disturbed, and the number of days for which the permit shall be good.
  - (b) For Public Utilities.
    1. Excavation on County or State Trunk Highways. Upon application and payment by a public utility of the fee of \$1.00, and upon showing that the Milwaukee County Highway Department of the Wisconsin Highway Commission has granted prior approval, the Plumbing Inspector or the Superintendent of Public Works shall issue a permit to excavate or disturb the surface of any street, or public place between curb lines on County or State Trunk Highways. The permit shall state the name of the applicant, the nature, purpose, and extent of the evacuation or disturbance of the street surface, the location thereof, and the kind or kinds of pavement to be disturbed, and the number of days for which the permit shall be good.
    2. Excavation on Village Streets. Upon application and payment by a public utility of the permit fee of \$1.00 and of the inspection fee of \$4.00 for each separate excavation, and upon showing that an emergency or need exists, the Plumbing Inspector or the Superintendent of the Public Works shall issue a permit to excavate or disturb the surface of any

Village street, alley, or public place between curb lines; provided that if the excavation or disturbance of the surface to be made is not more than four (4) square feet and is for the purpose only of placing any post or pole, no fee shall be required. The permit shall state the name of the applicant, the nature, purpose, and extent of the excavation or disturbance of the street surface, the location thereof, and the kind or kinds of pavement to be disturbed, and the number of days for which the permit shall be good.

The following are conditions required of public utilities for permission to work within the Village right-of-way: the applicant agrees to indemnify and hold harmless the Village, its employees, agents, and officers from any liability due to the issuance of the permits. Any pavement, turfed areas, or other elements within the Village right-of-way disturbed by the permitted work shall be restored, including proper backfilling, by the applicant in kind to the quality, grade, and condition, at least equal to as it existed prior to being disturbed. Pavement restored must be maintained for a period of three (3) years from the date of such restoration by the application. Should it become necessary, for future improvements in the right-of-way, permitted facilities will be adjusted, altered, or relocated by the applicant at no cost to the Village.

- (c) Disposition of Permit and Inspection Fees. The Plumbing Inspector and the Superintendent of Public Works, upon receipt of any license or inspection fee shall forthwith transmit said money to the Village Treasurer, who shall deposit it in the general funds of the Village.
- (3) **Excavating and Opening; Replacing Surface; Removal of Refuse.**
- (a) All excavating and opening in any street, alley, or public place shall be done in compliance with such reasonable rules and requirements as may be laid down therefor by the Plumbing Inspector and Superintendent of Public Works.
  - (b) Replacing Street Surface.
    - 1. When opening any street surface or other public way, all material for paving and ballasting must be removed with the least possible loss of surfacing material and such material, together with the excavated material from the trenches, or otherwise, must be placed where it will cause the least inconvenience to the public. All such materials must be so placed to they will permit free passage of water along the gutters or ditches, and the road or street must be at all times kept open for traffic. No more than the necessary amount of trench may be dug. The backfilling must be puddle and the paving and ballast must be replaced in as nearly the original condition as possible, and to the satisfaction of the Plumbing Inspector or Superintendent of Public Works. All excavations shall be adequately shored or braced to prevent the side walls from caving. When caving occurs, all the street surface thus disturbed must be restored in the same careful manner as though it were any excavation or trench. When any excavation is made in the graveled or paved surface of the road or street, and the shoulder thereof, the clay excavated must be removed and the excavation entirely backfilled with sand or gravel thoroughly wet and consolidated. Any tunnels dug in gravel roads or pavements shall be backfilled with concrete, subject to the approval of the Plumbing Inspector or Superintendent of Public Works.

2. The permit issued hereunder shall be issued upon the express condition that the licensee shall restore the pavement to its former condition and shall use new material in restoring the surface of the pavement. If such replacing of the surface shall be done at Village expense at a cost in excess of the fee for the permit, the licensee shall reimburse the Village for such extra cost.
  3. All refuse and excess dirt and material shall be removed from the street surface as the work progresses or immediately upon its completion.
- (4) **Protection of the Public.** Every person making an excavation hereunder must enclose each opening which he may make in the roads, streets, or public ways, with sufficient barriers. Red lights must be kept burning from sunset to sunrise, one red light to be placed at each end of openings in streets, and other lights to be placed at intervals of 10 feet. All necessary precautions shall be taken to guard the public effectually from accident or damage to persons or property from the beginning to the end of the work. Persons making excavations will be held liable for all damages, including costs incurred by the District and of any appeal thereon that may result from the neglect of servants, agents, or employees of such person or owner, or the cost of any necessary precautions which such person or owner has failed to take to prevent injury or damage to persons, livestock, vehicles, or property of any kind. Prior to the issuing of a permit hereunder, the Plumbing Inspector or Superintendent of Public Works shall require satisfactory evidence, in the form of certificates, that the person applying for such permit carries public liability insurance in a solvent insurance company, licensed to do business in Wisconsin, in the sum of at least \$25,000 for injury to one person, and \$50,000 for one accident, or a certificate of insurance from a plumbing association recognized by the Department of Public Works.

**12.02 DIGGING UP STREET, ETC., WITHOUT PERMIT.** No person shall injure or tear up any pavement, crosswalk, drain, or sewer or any part thereof, or shall dig any hold, ditch, or drain in any street or pavement without a permit.

**12.03 INTERFERING WITH PUBLIC IMPROVEMENTS PROHIBITED.** No persons shall hinder or obstruct the making or repairing of any pavement or crosswalk which may be under construction under direction of the Village Board, nor shall hinder or obstruct any person employed by the Village Board or persons employed by them, in making or repairing any public improvement or in any work ordered by the Village.

**12.04 GRADES.**

(1) **Altering Prohibited.** No person shall alter the grades of any street, alley, sidewalk, or public ground in the Village, unless authorized or directed so to do by the Village Board or Building Inspector.

(2) **Removal of Grading Material Prohibited.** Whenever any street, sidewalk, alley, or public ground shall be ordered to be graded by filling, and any material shall be deposited on such street, sidewalk, alley, or public ground for the purpose of raising the same to the grade ordered, all persons, contractors, as well as others, so grading such streets, sidewalks, alleys, or public grounds and all other persons are prohibited from removing from such streets, sidewalks, alleys, or public grounds any such material placed here without written consent of the Building Inspector.

## 12.05 SIDEWALKS.

- (1) **Construction.** No person shall construct, excavate, open, remove, or cut into any public sidewalk, or part or portion of any public sidewalk within the Village, unless authorized or directed to do so by the Village Board or Director of Public Works. No fee shall be required for such authorization.
- (2) **Maintenance.** The owner, occupant, or person in charge of every building, structure, or unoccupied lot fronting or abutting on any street shall keep the sidewalks clean of any dirt, dust, cinders, mud, oil, or other similar substances.
- (3) **Specifications.**
  - (a) **General.** Pursuant to §66.615(3)(a), Wis. Stats., as amended from time to time, unless a different method is otherwise hereafter prescribed by the Village Board for specific projects, concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the Director of Public Works.
  - (b) **Grading.** Prior to construction, ground on which sidewalks are to be placed shall be brought to subgrade by the contractor.
  - (c) **Subgrade.** Subgrade shall be solid and all places due below shall be brought to grade with sand fill, thoroughly and uniformly compacted and brought to correct grade and thoroughly wet down immediately before concrete is placed. Soft and unsuitable subgrade material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed.
  - (d) **Concrete.** The minimum quantity of cement per cubic yard shall be six (6) 94-pound sacks. Gravel shall be of good quality and washed. Concrete shall test 3,000 pounds compressed in 28 days.
  - (e) **Jointing.** Expansion joints one-half (1/2) inch thick the width of the walk shall be placed at 50-foot maximum intervals. At all places where a walk intersects another walk or curb line, a one-half (1/2) inch expansion joint shall be placed.
  - (f) **Slope.** To provide adequate drainage, the sidewalk shall slope toward the roadside swale or curb at a rate of one-fourth (1/4) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.
  - (g) **Width and Thickness.** Residential walks shall be four (4) feet in width and not less than four (4) inches thick except within driveway approaches where the minimum thickness shall be six (6) inches, provided that walks in residential areas may be repaired or replaced to a width not less than the existing width on the effective date of this Section. Sidewalks in front of commercial or industrial establishments shall be not less than five (5) feet in width and five (5) inches in thickness, except within driveway approaches where the minimum thickness shall be seven (7) inches. Sidewalks shall be located one (1) foot from the property line. One-half (1/2) inch reinforcement rod shall be used when replacing or repairing sidewalks over alley entrances.
  - (h) **Finishing.** The concrete shall be struck off true to grade, finished smooth, and given a broom finish. All edges shall be rounded. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal

temperatures for 48 hours and in cold weather (below 50 degrees F.) for 96 hours. No concrete shall be poured when the temperature may be expected to fall below 35 degrees F. in any 72-hour period or upon frozen subgrade.

- (i) **Curing.** Concrete shall be kept moist by sprinkling, covering, or a combination of both for a minimum of five (5) days, or a curing compound may be used in place of a curing procedure.
  - (j) **Higher Standards.** Where deemed necessary, higher sidewalk standards may be required by the Director of Public Works.
- (4) **Repair and Replacement.** Pursuant to §66.615(3)(b), Wis. Stats., as amended from time to time, the Commission of Public Works may order any sidewalk which is unsafe, defective, or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the specifications set forth under Subsection (3) above.

## 12.06 CULVERTS FOR DRIVEWAYS AND WALKS.

- (1) **Permit Required.** No person shall construct a private driveway, road, or walkway providing ingress or egress to any public street or highway within the Village where there is a drainage ditch along such street or highway through which natural surface water drains, without obtaining a permit as hereinafter provided. Such culvert permit shall be a condition precedent to the issuance of a building permit, and shall be issued by the Village Clerk.
- (2) **Permit.** Anyone desiring ingress and egress to the public street aforesaid shall make application for a permit stating:
  - (a) The name of the applicant.
  - (b) The address of the applicant.
  - (c) The Hales Corners address where ingress and egress to the public street is sought.
  - (d) A sketch of the premises showing the exact location where such ingress and egress is sought.
- (3) **Culvert Specifications.** The Superintendent of Public Works shall determine the type and size of culvert necessary to assure proper drainage, provided, however, that a straight culvert for a sidewalk shall not be less than six (6) feet in length and 12 inches in diameter, and for a driveway shall not be less than 20 feet in length and 12 inches in diameter. In cases where a larger diameter culvert pipe is required than hereinafter specified, the Superintendent shall determine the permit fee in proportion to the fees herein specified for the indicated diameters.
- (4) **Permit Fees.** The permit fee shall be as follows:
  - (a) For a straight culvert for a driveway 20 feet in length shall be \$350.00.
  - (b) For a culvert for a driveway in excess of 20 feet in length, the fee prescribed for 20 feet of pipe plus \$7.00 for each additional foot.
  - (c) For a sidewalk culvert at a rate of \$6.30 per foot.
- (5) **Installation.** Upon receipt of the executed application together with the permit fee, the Village Clerk shall forthwith notify the Superintendent of Public Works to install at Village expense the culvert specified by the Superintendent.
- (6) **Culverts for Public Works Projects.** For all Village public works projects, where the installation of a culvert is necessary, no permit and no fee shall be required in event the

abutting owner has a satisfactory culvert in place at the time of such construction or improvement and in further event the Village replaces such culvert with one of like or smaller size. "Satisfactory culvert" means a culvert which would be approved by the State Highway Commission. In all other instances for Village public works projects wherever a culvert is necessary or wherever a larger culvert is necessary, a permit shall be required in accordance with Subsections (1) through (5) of Section 12.06; wherever a larger culvert is necessary, a credit for a small "satisfactory culvert" shall be given.

## **12.07 SNOW AND ICE REMOVAL.**

- (1) **Duty to Clean.** The owner, occupant, or person in charge of every building, structure, occupied or unoccupied lot in the Village fronting upon or abutting any street, shall clean the sidewalk in front of or adjoining such building, occupied or unoccupied lot, of snow or ice to the width of such sidewalk by 12:00 noon of each day, and cause the same to be kept clear from snow or ice; provided, that when ice has so formed on any sidewalk that it cannot be removed, then the person herein referred to shall keep the same sprinkled with ashes, sawdust, or sand and other suitable substances; provided, also that in case now shall continue to fall for some time, then, and in that case, it shall be removed immediately after the same shall cease to fall.
- (2) **Dumping Snow in Streets or Public Ways.** No person shall plow, shovel, or dump snow or cause snow to be plowed, shoveled, or dumped from any sidewalk, driveway, or parkway onto a public street or alley; no person shall plow, shovel, or dump snow or cause snow to be plowed, shoveled, or dumped from any driveway, parkway, public street, or alley onto any sidewalk.
- (3) **Village May Cause Removal.** If the owner or person in charge of any occupied or unoccupied building or lot fronting upon or adjoining any street shall fail to clean the sidewalks as provided in subsection (1) hereof, the Superintendent of Public Works shall proceed to clean the said sidewalks and he shall keep an account of the actual cost of said work of removing said snow and ice, and the same shall be by him delivered to the Village Clerk to be charged against the property fronting upon or adjoining any such street or entered on the tax roll of the Village and collected in the same manner as all other Village taxes are collected.

## **12.09 WATERCOURSES.**

- (1) **Removal of Obstructions.** Whenever any natural drainage watercourse becomes obstructed so that the natural flow of water along the same is retarded by the negligent action of the owner, occupant, or person in charge of the land wherever such obstruction is located, the owner or occupant of any lands affected and damaged by such obstruction may request the removal thereof by giving notice in writing to such owner, occupant, or person of the land wherever such obstruction is located. If such removal is not made within six (6) days after receipt of such notice, the owner or occupant of the lands so affected may make complaint to the Village Board filing at the same time a copy of said written notice, and the Village Board, upon being satisfied that the complaint is just after viewing the watercourse, shall make recommendations in writing to the owner or occupant of the lands where the obstruction is, of the removal of such obstruction, and if such recommendations are not followed within a reasonable time, shall order the obstruction removed. The cost of removal and the cost, if any, for professional services necessitated by the Village Board in the formulation of its recommendations shall be

charged and assessed against the lands from which the obstruction was removed and collected as other special assessments are collected.

- (2) **Obstructing of Ditches Prohibited.** No person, without the written consent of the Village Board, shall place any dam, sluice, bulkhead, log, timber, pole, lumber, brush, stone, earth, or other obstruction of any kind to the free flow of water in any ditch constructed or maintained by the Village.

**12.10 ERECTION OF POLES IN STREETS; PERMITS REQUIRED.** Before any person shall erect any telegraph, telephone, electric, railroad, or light poles or posts upon any street or alley, he shall submit to the Commission of Public Works the route of their proposed line or lines, or any extensions thereof, showing as far as practicable the location of each pole or post and the number and location of the wires. No such pole or post shall be erected until permission shall first be obtained from the Commission of Public Works.

**12.11 SELLING WITHIN STREETS PROHIBITED.** No person shall sell or offer for sale any goods, wares, merchandise, or product within the dedicated portion of any street within the Village.

**12.12 PENALTY.** Any person who shall violate any provisions of this chapter shall be subject to a penalty as provided in section 19.04 of this Code.

#### **12.13 FORESTRY PLANTING AND MAINTENANCE**

(1) **Definitions.**

- (a) **Street Trees:** Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between and within right-of-way lines and on either side of all streets, avenues, or ways within the Village.
- (b) **Park Trees:** Park trees are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the Village or to which the public has free access as a park and over which the Village has jurisdiction.
- (c) **Forester:** Person and/or Village employee designated by the Village Board as authorized to carry out provisions of this ordinance.

(2) **Duties and Responsibilities of Ecology Committee.** It shall be the responsibility of the Ecology Committee to study, investigate, and develop and update a written plan for the care, preservation, pruning, planting, replanting, removal, and disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan shall be presented to the Village Board and upon its acceptance and approval shall constitute the official comprehensive Village forestry plan for the Village of Hales Corners. The Ecology Committee as directed by the Village Board shall consider, investigate, make findings, report and recommend upon any special matter or question pertaining to forestry planting or maintenance. The Ecology Committee shall view all tree trimming policies of utilities operating within the Village and report to the Village Board as to any provisions of such policies which conflict with the purpose and provisions of this ordinance.

(3) **Tree Species to be Planted.** The Ecology Committee shall develop and maintain a list of desirable trees for planting and replacement along streets, listing trees in three (3) size classes based upon mature height: small (under 20 feet), medium (20 to 40 feet), and

large (over 40 feet). A list of trees not suitable for planting shall also be developed and maintained by the Ecology Committee.

- (4) **Spacing.** The spacing of street trees shall be subject to the three (3) species size classes listed in subsection (3) of this ordinance, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; large trees, 50 feet; except in special plantings designed or approved by a landscape architect and the Village Forester for aesthetic, safety, or layout practical difficulty alleviation purposes.
- (5) **Distance from Street Corners and Fire Hydrants.** No street tree shall be planted within 35 feet of any street corner, measured from the point of the nearest intersecting curb or curblin. No street tree shall be planted within 10 feet of any fire hydrant.
- (6) **Utilities.** No street trees other than those species listed as small trees in subsection (3) of this ordinance may be planted under or within 10 feet of any overhead utility wire.
- (7) **Public Tree Care.** The Village shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the aesthetic symmetry and beauty of such public grounds.

No person except under order of the Village Forester or under emergency circumstances when necessary to protect persons or property shall plant or remove, prune, cut, or alter any street tree or park tree or cause such act to be done by others without first obtaining signed permission for such work from the Village Forester as herein provided. The permittee shall comply with the planting standards of subsection (3) through (6) of this ordinance.

- (8) **Tree Topping.** No person or entity shall top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees under and potentially interfering with utility wires, or other obstructions where other pruning practices are impractical, shall be exempt from this subsection upon the written permission of the Village Forester.
- (9) **Pruning, Corner Clearance.** Every owner of any tree on private property which overhangs any street or right-of-way within the Village shall prune the branches so that such branches shall not obstruct the light from any street light so as to substantially reduce its intended illumination or obstruct the view of any street or intersection and so that there shall be a clear space of 13 feet above street surface or eight (8) feet above sidewalk surface. The Village shall have the right to prune or remove that portion overhanging or existing above any public right-of-way of any tree or shrub rooted on private property. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable existing franchise, easement, or other agreement.
- (10) **Dead or Diseased Tree Removal on Private Property.** The owner of any tree upon private property shall remove and the Village shall have the right to cause the removal of any dead or diseased tree or limb on private property within the Village, when such tree or limb constitutes a danger to persons or property or constitutes a potential threat by way

of disease to other trees within the Village. The Village Forester shall order and notify such property owner(s) in writing of the requirement to remove or thin any such tree. Removal or trimming shall be done by said owner at the owner's expense within 30 days after the date of mailing of notice and order. In the event of the failure of such owner(s) to comply with such notice and order, the Village may remove or trim such trees and charge the cost of removal to the property owner(s) as a special charge pursuant to §66.60(16)(a), Wis. Stats., pursuant to the procedures for sidewalk repair specified thereunder. Any such tree existing upon joint private property lines shall be the joint and several responsibility of the adjoining property owners.

- (11) **Removal of Stumps.** Stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Stumps in close clusters or on strip banks may remain if permitted and determined to be safe and aesthetically pleasing by the Village Forester.
- (12) **Protection of Trees on Public Property.** All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with a substantial structurally sound fence, frame, or box not less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches D.B.H., whichever is greater, and all building material, dirt, or other debris shall be kept outside the barrier. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of 10 feet from any public tree without first obtaining a written permit from the Village Forester, who shall determine whether such activity may be done without unnecessary harm to any tree and shall condition any permit granted to prevent such harm.
- (13) **Protection of Existing Trees During Development.** A tree preservation plan submitted in accordance with Section 8-2-10 Zoning Code is required for the protection of existing trees during development. See also §8-8-1 of the Zoning Code and §12.13(5) and (9) of the Municipal Code for traffic visibility requirements.
- (14) **Interference with Village Forest and/or Ecology Committee.** It shall be unlawful for any person to prevent, delay, or interfere with the Village Forester and/or Ecology Committee or any of their agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or the removal or trimming of trees on private grounds pursuant to subsections (9) and (10) above, as authorized in this ordinance.
- (15) **Penalty.** Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine as provided under §19.04 of this Code. Any violation of subsections (8), (9), or (10) of this ordinance shall be considered a public nuisance, which may be enforced by way of injunctive or other equitable relief, in addition to all other penalties provided hereunder.
- (16) **Appeals.** The Board of Appeals shall hear and decide appeals by any aggrieved person where it is alleged that there is error in any order, decision, or determination made by the Village Forester in administering this ordinance, pursuant to Article V(2) of this Code. Upon appeal, the Board of Appeals may authorize variances from the provisions of this ordinance which are not contrary to the public interest and were due to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship.