

MUNICIPAL CODE OF THE VILLAGE OF LUXEMBURG

CHAPTER 6

PUBLIC WORKS

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6.01 STREET AND SIDEWALK GRADES.

(1) ESTABLISHMENT. The grade of all streets, alleys and sidewalks shall be established by resolution of the Village Board and the same recorded by the Village Clerk-Treasurer in his office. No street, alley or sidewalk shall be worked until the grade thereof is established.

(2) ALTERATION OF GRADE PROHIBITED. No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village by any means whatsoever unless authorized or instructed to do so by the Village Board or the Director of Public Works. All such alterations of grade shall be recorded in the office of the Village Clerk-Treasurer by the Clerk-Treasurer or the officer authorizing the alteration.

(3) PENALTY. The penalty for violation of any provision of this section shall be a penalty as provided in §25.04 of this Code.

6.02 SIDEWALK CONSTRUCTION AND REPAIR.

(1) OWNER TO CONSTRUCT. It shall be the duty of the abutting owner to build, repair, construct and perpetually maintain sidewalks along or upon any street, alley or highway in the Village and to pay the entire cost thereof. Whenever the Village Board shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the Village, it shall proceed according to §66.615, Wis. Stats.

(2) PERMIT REQUIRED. No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village 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 7 days before work is proposed to be undertaken. No fee shall be charged for such permits.

(3) SPECIFICATIONS. (Optional) All sidewalks within the Village hereafter shall be repaired, rebuilt and constructed in accordance with the following specifications:

(a) Subgrade. The subgrade shall be prepared by excavating to the line, grade and cross section as established by the Village Board. Soft and unsuitable 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. When so specified by the Director of Public Works a sub-base of sand, sand and gravel or other approved porous material shall be placed under the sidewalk. On embankments the subgrade shall extend at least one foot beyond each edge of the sidewalk.

(b) Material. All sidewalks shall be of air entrained concrete composed of 6 bags per cubic yard of one course construction and built to the established line and grade. Gravel shall be of good quality and washed. Concrete shall be mixed thoroughly for a minimum of one minute after all materials have been placed in the mixer.

(c) Forms. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Wood forms shall be surfaced plank of at least 2 inches thickness except for sharply curved sections. Metal forms shall be of approved section. The forms shall be of full depth of the required walk and shall be of such design as to permit secure fastening. Forms shall be thoroughly cleaned and oiled before the concrete is placed against them. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and furnished with wooden flats.

To provide adequate drainage the sidewalk shall slope toward the curb at a minimum rate of 1/4 inch per foot of width of sidewalk. All joints and edges shall be finished with a ¼ inch radius edging tool.

(d) Width and Thickness. Residential walks shall be 5 feet in width and not less than 4 inches thick except within driveway approaches where the minimum thickness shall be 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 8 feet in width and 5 inches in thickness except within driveway approaches where the minimum thickness shall be 7 inches.

(e) **Finishing.** Before the last finish has set, the sidewalk shall be steel troweled and brushed in transverse direction. Before final finishing, the surface shall be checked with a 10-foot straight edge and any areas departing more than 1/8 inch from the testing edge shall be corrected by adding or removing concrete while the concrete in the walk is still plastic.

(f) **Jointing.** Transverse, full depth, 1 / 2 inch thick expansion joints of pre-molded expansion material shall be located every 40 feet and at the property line, and where the walk intersects another walk, curb line, building or driveway approach, and at buildings, walls, poles and stop boxes. The expansion joint material shall be placed in a neat and workmanlike manner with its upper edge slightly below the finished sidewalk surface. Dummy groove joints for controlled cracking, at least one inch in thickness and 5/16 inch in depth, shall be placed in intervals of approximately 5 feet. Steel division plates shall be placed at right angles to the center line of the sidewalk at intervals of not less than 15 feet. All joints shall be at right angles to the direction and grade of the walk. Diagonal joints may be used only when approved by the Director of Public Works.

(g) **Curing and Drying.** As soon as any of the concrete work has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "Impervious Coating", "Wet Fabric" or "Paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Specs. C156-44 shall be used. Such specifications are hereby adopted by reference as if fully set forth herein. 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.

(4) **PENALTY.** The penalty for violation of any provision of this section shall be a penalty as provided in §15.04 of this code.

6.03 DRIVEWAYS.

(1) **Approval Required.** No person shall construct or maintain any driveway across any sidewalk or curbing without first obtaining a driveway permit from the Director of Public Works.

(2) Specifications for Driveway Construction.

(a) **Width.** No driveway shall exceed 24 feet in width at the outer or street edge of the sidewalk unless special permission is obtained from the Village Board.

(b) **Interference with Intersections Prohibited.** At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village Board for effective traffic control or for highway signs or signals.

(c) **Interference with Street.** No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches or roadside areas or with any existing structure on the right of way. When required by the Director of Public Works to provide for adequate surface water drainage along the street, the property owner shall provide any necessary culvert pipe at his own expense.

(d) Number of Approaches Limited. No more than one driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible without undue impairment of safety, convenience and utility of the street by the Director of Public Works. Any 2 approaches shall be at least 10 feet apart.

(e) Workmanship and Materials. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in §6.02(3) of this code insofar as such requirements are applicable, including thickness requirements in §6.02(3)(d).

(f) Permittee Liable for Damage or Injury. The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances. When curb or gutter is removed, the new connection shall be of equivalent acceptable material and curb returns provided or restored in a neat, workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a neat, workmanlike manner. Any sidewalk areas which are damaged or are inadequate by reason of vehicle travel across the sidewalk shall be replaced in accordance with the requirements of §6.02(3).

(3) PENALTY. The penalty for violation of any provision of this section shall be a penalty as provided in §15.04 of this code.

6.04 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 therefore from the Director of Public Works.

(2) Fee. The fee for a street opening permit shall be \$2.00 and shall be paid to the Village Clerk-Treasurer who shall issue a receipt therefor.

(3) Bond. Before a permit for excavating or opening any street or public way may be issued, the applicant must execute and deposit with the Village 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 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. Red lights or torch lamps shall be kept burning from sunset to sunrise, one red light or torch lamp 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 a 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 such street or any real property abutting such 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 such 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 Excavating Authorized. In the event of any 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 direction of the Director of Public Works by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets.

(9) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in §25.04 of this code.

6.05 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 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:

1. Signs or clocks attached to buildings which project not more than 6 feet from the face of such building and which do not extend below any point 10 feet above the sidewalk, street or alley.
2. Awnings which do not extend below any point 7 feet above the sidewalk, street or alley.
3. Public utility encroachments duly authorized by State law or the Village Board.
4. Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than 3 feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than 2 hours.
5. Temporary encroachments or obstructions authorized by permit under sub. (3).
6. Excavations and openings permitted under §6.04.

(3) Street Privilege Permit.

(a) When Required. Permits for the use of the streets, alleys, sidewalks or other public ways or places of the Village may be granted to applicants by the Director of Public Works for the purpose of moving any building or structure or 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 subsection and has obtained a building permit if required by §8.01 of this code.

(b) Bond. No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk a bond in an amount determined by the Director of Public Works, conditioned that the applicant will indemnify and save harmless the Village from all liability for accidents or damage caused by reason of operations under such 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 Village resulting from such building or moving operations.

(c) Fee. The fee for a street privilege permit shall be \$10.00.

(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 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 4 feet in width guarded by a closed fence at least 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 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.
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.
8. Termination. All street privilege permits shall automatically terminate at the end of 3 months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Director of Public Works.

(4) Removal by Village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk shall refuse or neglect to remove such obstruction within 24 hours after 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 cost and expense thereof to the Village Clerk-Treasurer 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.

(5) Penalty. The penalty for violation of any of the provisions of this section shall be a penalty as provided in §15.04 of this code.

6.06 SNOW AND ICE REMOVAL.

(1) Responsibility of Owner, Occupant, Etc. The owner, occupant or person in charge of each and every building or structure or unoccupied lot in the Village fronting or abutting any street shall clean or cause to be cleaned the sidewalk in front of or adjoining each such home, building or unoccupied lot as the case may be of snow or ice to the width of such sidewalk by 7:00 p.m. of each day and shall cause the same to be kept clear from ice and snow, provided that when the ice has formed on any sidewalk so that it cannot be immediately removed, the persons herein referred to shall keep the same sprinkled with ashes, sawdust or sand; provided also, that in case snow shall continue to fall during and after 7:00 p.m., then it shall be removed within 8 hours of daylight after it shall cease to fall.

(2) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in §25.04 of this code. A separate offense shall be deemed committed during each hour or part thereof during which a violation occurs or continues.

6.07 TREE TRIMMING AND SANITATION.

(1) Trees to be Kept Trimmed. Trees standing in and upon any public street or place, or upon any lot or land adjacent thereto shall be pruned or trimmed by the owner or owners or occupants of the property on or in front of which such trees are growing so that the lowest branches projecting over the public street or alley will provide a

clearance of not less than 14 feet and a clearance of not less than 10 feet over any other public place and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous.

(2) Hazardous and Infected Trees. Any tree or part thereof, whether alive or dead, which the Director of Public Works shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the Village, or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The Director of Public Works shall give written notice to such owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 14 days as determined by the Director of Public Works on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim such tree within the time limited, the Director of Public works shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk-Treasurer who shall thereupon enter such cost as a special charge against the property.

(3) COTTONWOOD AND BOX ELDER TREES PROHIBITED. No person shall plant or maintain within the Village any female tree of the species *Populus deltoides*, commonly called the "Cottonwood", or any tree commonly called the seed-bearing "Box Elder" or *Acer negundo*, which may now or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within 30 days after receiving written notice from the Director of Public Works, the Director shall cause the removal of such tree and report the full cost thereof to the Village Clerk-Treasurer who shall place such charge upon the next tax roll as a special charge against the premises.

(4) PLANTING OF CERTAIN TREES RESTRICTED. No person shall here- after plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, or any fruit or any nut tree in or upon any public street, parkway, boulevard or other public place within the Village of Luxemburg unless he shall first secure written permission from the Director of Public Works, who shall not approve any such planting if in his opinion such tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system. The Director of Public Works shall cause the removal of any tree planted in violation of this subsection.

(5) PENALTY. The penalty for violation of any provision of this section shall be a penalty as provided in §25.04 of this Code.

(6) PLANTING OF TREES ON STREETS. To regulate the planting of shade trees on streets of the Village of Luxemburg, County of Kewaunee, State of Wisconsin, the Board of Trustees do ordain as follows:

(a) No person or persons hereafter shall plant any tree or shade trees on the streets of the Village of Luxemburg of no more or less than 5 feet of [from] the center of the sidewalk.

(b) Where no sidewalk exists, any person or persons may plant trees or shade trees of no more or less than 11 feet from the exterior line of the street.

6.08 SPECIAL ASSESSMENT PROCEDURE. (Cr. 12/4/07)

(1) In addition to other methods provided by law, special assessments for any public work or improvement or any current service may be levied in accordance with the provisions of this section.

(2) Whenever the governing body shall determine that any public work or improvement or any current service shall be financed in whole or in part by special assessments levied under this section, it shall adopt a resolution specifying this intention and the time, either before or after completion of the work or improvement, when the amount of the assessments will be determined and levied, the number of annual installments, if any, in which assessments may be paid, the rate of interest to be charged on the unpaid balance and the terms on which any of

the assessments may be deferred while no use of the improvement is made in connection with the property.

(3) The provisions of §66.0703, Wis. Stats., shall apply to special assessments levied under this ordinance except that, when the governing body determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by §66.0703(4), Wis. Stats., shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

(4) Notice of the time and place of the public hearing on any special assessment proposed to be levied and notice of the final assessment and terms of payment thereof shall be given in the manner prescribed by §66.0703(7) and (8)(d), Wis. Stats . .

(5) Any special assessment levied under this section shall be a lien against the property assessed from the date of the final resolution of the governing body determining the amount of the levy.

(6) Any person against whose property a special assessment is levied under this section may appeal therefrom in the manner prescribed in §66.0703(12), Wis. Stats., within 90 days of the date of the final determination of the governing body.