

CHAPTER 7

PUBLIC WORKS

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7.01 STREETS AND PUBLIC LANDS.

(1) Alteration Prohibited. No person shall effect access, block or barricade, work in, or undertake any act to the effect the existing street, alley, alleyway, public ground or any part thereof in the Village of North Bay by any means whatsoever unless authorized by permit issued by the Director of Public Works.

(2) Private Streets and Roadways. No Person shall effect access, block or barricade, work in, or undertake any act to effect any private street or roadway.

(3) Penalty. The penalty for violation of any provisions of this section shall be a penalty as provided in Section 19.04 of this Code.

7.02 DRIVEWAYS.

(1) Approval Required. No person shall construct or maintain any driveway which intersects any public or private road or roadway, without first obtaining a permit from the Director of Public Works.

(2) Specifications for Driveway Construction.

(a) Width. No driveway shall exceed twenty-four feet in width at the outer or street edge 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 the 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, at his own expense, provide any necessary culvert or pipe that may be necessary to permit the free flowage of surface water.

(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 two approaches shall be at least ten feet apart.

(e) **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 a road or roadway is intersected, the new connection shall be constructed in a manner acceptable as determined by the Director of Public Works. The Director of Public Works shall consider the quality of workmanship and materials, effect on drainage, and all issues relating to health and safety in reviewing and approving such construction.

(f) A cash bond in the amount of \$1,500.00 shall be filed with the Village Clerk. Such cash bond shall be held by the Village to guarantee the conditions of the permit. The deposit (or such amount that was unused to correct any errors) shall be returned to the property owner upon passage of inspection. (Added by Ord. 2013-05 on 10/15/13)

(3) **Penalty.** The penalty for violation of any provision of this section shall be a penalty as provided in Section 19.04 of this Code.

7.03 STREET EXCAVATIONS AND OPENINGS.

(1) **Permit Required.** No person shall make or cause to be made any excavation or opening in any street, alley, highway or other public or private road or roadway within the Village of North Bay without first obtaining a permit therefor from the Director of Public Works.

(a) Issuance of this permit does not constitute authority for any interference with traffic. A minimum of one lane of traffic shall be open at all times. Whenever the contractor's operations obstruct or endanger a traffic lane and no market detour has been provided, the contractor shall furnish a flagman to direct traffic through or around the congested area. The Village shall have the right to require additional flagmen as it shall deem necessary. (Added by Ord. 2013-05 on 10/15/13)

(b) Any damage or maintenance due to settlement of any other causes occurring within the street right-of-way, as a result of the issuing or exercising of this permit, must be corrected by the Permittee, or his agent, successors or assigns, in the time and manner designated by the Village Director of Public Works or an authorized representative, for a period of two (2) years from the date of the issuance of this permit.(Added by Ord. 2013-05 on 10/15/13)

(2) Fee. The fee for a street opening permit shall be \$250.00 or as subsequently determined from time to time by the Village Board of Trustees and shall be paid to the Village Treasurer who shall issue his 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 an indemnity bond, approved by the Village President, in the sum of not less than \$1,000,000.00 or such other amount as determined by the Village Board of Trustees from time to time conditioned that permittee will warrant, indemnify and hold harmless and defend the Village of North Bay, its officials, agents, attorneys and assigns from all liability including, but not limited to, bodily injury, personal injury, or property damages, whether occurring to public or private property, to Village officers, officials, employees, agents or private individuals as a result of any work covered under his permit, and that he will fill such excavation and opening in such a manner as to restore the street to its prior condition and in such a manner to keep and maintain the same in such condition, normal wear and tear, accepted to the satisfaction of the Director of Public Works, and that he will pay all fines 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.

The amount of the bond may be increased in specific cases upon determination by the Village Board of Trustees. Upon recovery under such bond, to the extent the work continues additional bonding shall be required, so that at

all times the bond shall remain in full force and in effect in the amount and with the conditions aforesaid.

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 that required by the Village Board of Trustees.

(5) Regulations Governing Street Openings.

(a) Frozen Ground. No opening in the streets 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 or injury to surfacing material and together with the excavated material from trenches shall be so placed 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. Warning lights shall be kept burning from sunset to sunrise, 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 two hundred fifty feet in advance of pipe laying nor left unfilled more than five hundred 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, 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 excavation 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 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 six inches in depth and each layer rammed, tamped or flushed to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The Village may elect to have the Village make the pavement repair for any street 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 thirty days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Director of Public Works shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty days. After such permanent improvement or repaving, no permit shall be issued to open, cut or excavate said street for a period of five years after the date of improvement or repaving unless in the opinion of the Director of Public Works an emergency exists which makes it absolutely essential that the permit be issued.

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

(8) Village Work Excluded. The provisions of this section shall not apply to excavation work under the direction of the Director of Public Works by

employees or contractors performing work under contract with the Village necessitating opening or excavations in Village streets.

(9) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 19.04 of this Code.

7.04 ENCROACHMENTS ON PUBLIC PROPERTY (Added by Ord. 2012-02 on 08/1/3/12)

(1) Policy: It is the policy of the Village of North Bay that no person shall make unauthorized use of public lands. Any encroachment on, to under, or over, or modification of Village owned, managed, maintained or leased lands including park, natural area or open space property, public buildings or rights-of-way will be deemed trespassing regardless of when the property was initially encroached upon. The violator(s) of such encroachment shall be notified and directed to remove any and all encroachments to the land not previously approved in writing by the Village, to restore the land to its original condition.

It is the policy of the Village of North Bay to resolve all encroachments in a fair and equitable manner, in the manner most beneficial, and to work with and assist encroaching parties to remove the encroachment(s).

(2) Definitions:

Easements - A limited right to make use of a property owned by another, such as a right-of-way across the property.

Encroachment - An incursion onto public lands including, but not limited to, clearing, grading, gardening, landscaping, installing structures, constructing, storing, placing, dumping, maintaining, cutting, overhanging, excavating, parking, diverting, destabilizing, draining onto, defacing, damaging, mutilating, removing, and limiting access onto.

Encroachment Violation Notice - A letter prepared by the Public Works Trustee and addressed to the property owner who encroaches upon public lands or public right-of-way that defines the encroachment and stipulates the conditions and requirements for removing the encroachment.

Lien Against Property - A claim or charge made against property.

Public Lands - Property owned by the Village of North Bay and property in which North Bay has an easement or interest. Examples include

parks, natural areas, fire, village hall, sidewalks and roadways, to the full extent of the public right-of-way, whether improved or unimproved.

Unauthorized Use - A use not permitted by the Village of North Bay.

(3) Procedure:

(a) Identification of Encroachments:

1. Upon discovery that an unauthorized encroachment has occurred, Village staff shall attempt to contact, in person, the property owner encroaching upon public property, identify the encroachment and work with that owner to have the encroachment removed and the area restored.

2. If the encroachment is not successfully removed, Village staff shall review the encroachment with the Village Attorney before recommending an appropriate action to the Village President or his/her designee.

3. Removal of Encroachment Notification. If it is determined that an encroachment requires removal and restoration, the encroaching party shall be mailed an Encroachment Violation Notice that identifies and directs removal and restoration of the unauthorized encroachment within thirty (30) days, unless circumstances warrant a more immediate removal or restoration.

(b) Failure to Comply:

1. If the encroaching party fails to comply with the written notice, the Village may remove the unauthorized encroachment and restore the property to its original condition. The cost of such action may be charged to the encroaching party.

(4) Appeals:

Individuals may appeal an Encroachment Violation Notice to the Village Board, who will issue a written decision based on the Village file and the contents of the appeal. Any appeal must be received within thirty (30) days of receipt of the Encroachment Violation Notice. Encroaching party(s) may, at their own expense, have legal representation at any appeal hearing.

(5) Boundary Disputes:

In the event that the property boundary is disputed, the property owner may, at the owner's expense, commission a boundary survey by a licensed and qualified surveyor. If there is a bona fide dispute as to the boundary, the Village shall wait a reasonable time for the survey to be completed.

(6) Costs to Resolve, Remove or Correct:

Costs to resolve or correct unauthorized encroachments will be charged to the party encroaching upon public lands. Such costs may include, but are not limited to, boundary surveys, construction permit fees, engineering or architectural fees, contracts, Village staff time, demolition, lien applications, removal, restoration, maintenance costs, legal fees and accrued interest if payment is not received within (30) days of invoicing. Such costs shall be levied and collected as a special charge against the encroaching property, as provided in 66.0627. Wisconsin Statutes.

(7) Damages and Value of Use:

In addition to the costs to resolve or correct the encroachment, the encroaching party shall be liable for any damage to Village property and shall be liable for the value of the use of the Village property encroached upon, at the rate of one percent (1%) per month of the fair market value of the encroached property or fifty (\$50) per month, whichever is greater.

(8) Public Property Use Permit:

When not prohibited by grant funding conditions tied to acquisition, restrictive covenants or applicable law, rules and regulations, and upon a finding that the Village has no foreseeable use or need for the property encroached upon, the encroaching party, or other interested applicants, may make application for a revocable permit to use and occupy the public property. The application for the permit must be made to the Village president or his/her designee, legally describing the property to be used and the purpose of such use. The minimum permit requirements will be determined by the Village Board on a case-by-case basis. The permit shall contain such conditions, including reasonable time limits, as the Board deems appropriate.

(9) Nuisance;

Any encroachment on Village property is hereby declared a nuisance, which can be abated by court order, or under Village of North Bay Ordinances, Chapter 19, Section 19.04.

(10) Infraction and Penalty

After receipt of an Encroachment Violation Notice, one who continues, intensifies, or expands such encroachment shall be issued a Notice of Infraction. In addition to, or in lieu of, any other remedies available under this section, any violation of this section may be enforced pursuant to the general penalty section of VNB Code of Ordinances, Chapter 19, Section 19.04.

(11) Street Privilege Permit. (Added by Ord. 2013-5 on 10/15/13)

(a) When Required. Permits for the use of the streets, alleys or other public ways or places of the Village may be granted to applicants by the Director of Public Works for the purpose of building or remodeling any structure or of encumbering the street, alley 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 Section 10.01 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 of North Bay 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 or public property of the Village resulting from such building or remodeling or demolition.

(c) Fee. The fee for a street privilege permit shall be \$65.00.

(d) Conditions of Occupancy. The permission to occupy or obstruct the streets, alleys or public grounds is intended only for use in connection with the actual erection, alteration, repair or removal 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;

Such temporary obstruction shall cover not more than one-third in width of any street or alley;

Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions;

No building or structure shall be allowed to remain over night on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant;

Upon termination of the work necessitating such obstruction, all parts of the streets, alleys 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 months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Director of Public Works.

7.05 TREE TRIMMING AND ENCROACHMENT.

(1) Hazardous and Infected Trees. Any tree or part thereof, whether alive or dead, which the Director of Public Works or the contractor engaged by the Village as provided in subsection (1) of this section, shall find to be 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 or other public improvements, whether growing upon private premises, shall be treated, pruned, removed or trimmed by the owner of the property upon which such tree or part thereof is located. The Director of Public Works shall give written notice to said 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 twenty-four hours nor more than fourteen 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 treat, prune, remove or trim said tree within the time limited, the Director of Public Works shall cause the tree to be treated, pruned, removed or trimmed and shall report the full cost thereof to the Village Clerk who shall thereupon enter such cost as a special charge against the property.

(2) Cottonwood and Box Elder Trees Prohibited. No person shall plant or maintain within the Village of North Bay 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 thirty 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 who shall place such charge upon the next tax roll as a special charge against the premises.

(3) Planting of Certain Trees Restricted. No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, Willow or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the Village of North Bay unless he shall first secure written permission from the Director of Public Works, who shall not approve any such planting if, in his opinion, said 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.

7.06 SEWER USE (Added by Ord. 2016-04 on 10-10-16)

(1) Adoption; Incorporation of City of Racine Sewer Use Ordinance. Wastewater services are provided to the Village of North Bay by the City of Racine. The sections and subsections of the City of Racine ("city") ordinances set forth below relating to "Utilities", and any amendments thereto, are hereby adopted, and may be enforced by the Village. References in such provisions to the "wastewater utility" or the "utility", or to the "general manager" or the "manager", or to the "board of standards" or to the "board", or to the "wastewater commission" or the "commission" or to the "common council" or to the "council", or to the "city" are, for purposes of this section, references instead to the Village Board or its designee(s), to the maximum extent permitted under applicable law. Nothing herein shall be interpreted or construed as indicating that the Village is a party to the 2002 Racine Area Intergovernmental Sanitary Sewer Service, Revenue-Sharing, Cooperation and Settlement Agreement.

(2) Sewer Use Ordinance Sections Adopted By Reference. The following sections of the City of Racine Municipal Code, as may be amended from time to time, are adopted by the Village and may be enforced by the Village within its jurisdiction:

- (a) Wastewater policy; purposes (Sec. 98-3 of the Racine Municipal Code).
- (b) Definitions (Sec. 98-4 of the Racine Municipal Code).
- (c) Approval of sewer plans; construction of projects (Sec. 98-114 of the Racine Municipal Code).
- (d) Right of inspection and survey; action for injunctive relief for violation of restrictions on use of system.(Sec. 98-115 of the Racine Municipal Code).
- (e) Definitions (Sec. 98-124 of the Racine Municipal Code)
- (f) Discharge of unpolluted waters (Sec. 98-125 of the Racine Municipal Code)
- (g) Storm sewers (Sec. 98-126 of the Racine Municipal Code)
- (h) Prohibited waste discharges (Sec. 98-127 of the Racine Municipal Code)
- (i) Wastewater discharges controlled (Sec. 98-128 of the Racine Municipal Code)
- (j) Discharge of sewage by agreement (Sec. 98-129 of the Racine Municipal Code)
- (k) Preliminary treatment facilities (Sec. 98-130 of the Racine Municipal Code)
- (l) Control manhole (Sec. 98-131 of the Racine Municipal Code)
- (m) Measurements and tests (Sec. 98-132 of the Racine Municipal Code)
- (n) Board of Standards; appeals (Sec. 98-133 of the Racine Municipal Code)
- (o) New connections prohibited (Sec. 98-134 of the Racine Municipal Code)

- (p) WPDES permit (Sec. 98-135 of the Racine Municipal Code)
- q) DNR NR 101 requirements (Sec. 98-135 of the Racine Municipal Code)
- (r) Authority to inspect (Sec. 98-137 of the Racine Municipal Code)
- (s) Board of Standards: Appeals and Decision of Board (Sec. 98-143(4) and (5) of the Racine Municipal Code)
- (t) Pretreatment regulations – general provisions (Sec. 98-150 of the Racine Municipal Code)
- (u) General sewer use requirements (Sec. 98-151 of the Racine Municipal Code)
- (v) Pretreatment of wastewater (Sec. 98-152 of the Racine Municipal Code)
- (w) Administration (Sec. 98-153 of the Racine Municipal Code)
- (x) Fees (Sec. 98-154 of the Racine Municipal Code)
- (y) Enforcement (Sec. 98-155 of the Racine Municipal Code)
- (z) Penalty; Costs and Actions (sec. 98-156 of the Racine Municipal Code)

(3) Penalty. The penalty for violation of any provision of this section shall be a penalty as provided in Section 19.04 of this Code.