

## Chapter 6

### STREETS

6.01	Grades
6.02	Sidewalk Construction and Repair
6.03	Driveways
6.04	Culverts
6.05	Right-Of-Way Management
6.06	Obstructions and Encroachments
6.07	Street Privilege Permit
6.08	Removal of Street Encroachment
6.09	Snow and Ice Removal
6.10	Trees
6.11	Damages to or Obstruction of Streets
6.12	Reserved
6.13	Reserved
6.14	Reserved
6.15	Vehicles Transporting Septic or Holding Tank Waste

## 6.01 GRADES.

(a) Establishment. The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board and the same recorded by the Village Clerk/Treasurer in his or her office. No street, alley or sidewalk shall be worked on until its grade is established.

(b) 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 unless authorized or instructed to do so by the Village Board. 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.

## 6.02 SIDEWALK CONSTRUCTION AND REPAIR.

(a) 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 hereof. 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 Section 66.615, Wisconsin Statutes.

(b) Permit Required. No person shall lay, remove, replace or repair any public sidewalk within the Village of Paddock Lake unless he is under contract with the Village to do such work or has obtained a permit from the Building Inspector before such work is undertaken. No fee shall be charged for such permits.

## 6.03 DRIVEWAYS.

(a) Permit. No person shall construct or maintain any driveway which intersects with any public street, alley or public right-of-way without first obtaining a driveway permit from the Building Inspector pursuant to Section 12.03(6) of these Ordinances.

(b) Specifications for Driveway Construction.

(1) Width. No driveway, including the apron, shall exceed 24 feet in width at the edge or intersection of any street, alley or public right-of-way unless a special permit is obtained from the Village Board.

(2) 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.

(3) 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 recommended by the Committee on Streets and Roads, the Village Board may require the property owner to provide for adequate surface water drainage along the street, and the property owner shall also provide any necessary culvert pipe at his own expense.

(4) 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 Building Inspector. Any two approaches shall be at least 10 feet apart.

(5) 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 the 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.

#### 6.04 CULVERTS.

No person shall lay, remove, replace or repair any culvert within the Village unless he is under contract with the Village to do such work or has obtained a permit from the Building Inspector before work is undertaken.

#### 6.05 RIGHT-OF-WAY MANAGEMENT.

(a) Findings and Purpose. The Village finds that the passage of the Telecommunications Act of 1996 has resulted in increased use of the public rights-of-way and increased costs to the taxpayers of the Village and that these costs are likely to continue into the foreseeable future.

The Village finds that excavation and occupancy of the public rights-of-way causes direct and indirect costs to be borne by the Village and its taxpayers including, but not limited to:

(1) Administrative costs associated with public right-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.

(2) Management costs associated with ongoing management activities necessitated by public right-of-way users.

(3) Repair costs to the roadway associated with the actual excavation into the public right-of-way.

(4) Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into the public rights-of-way.

In response to the foregoing facts, the Village hereby enacts this ordinance relating to administration of and permits to excavate, obstruct and/or occupy the public rights-of-way, together with an ordinance making necessary revisions to other code provisions. This ordinance imposes reasonable regulations on the placement and maintenance of facilities currently within the regulatory roles of state and federal agencies.

The Village's authority to enact this ordinance is pursuant, but not limited to, the following federal, state and local authority: 47 U.S.C. 253(c); §62.11(5), Wis. Stats.; §66.045 Wis. Stats.; §66.048, Wis. Stats.; §86.16, Wis. Stats.; §182.017, Wis. Stats.; §196.58(1), Wis. Stats.; §196.499(1), Wis. Stats.; and Chapters 6 and 12 and 38 of these Ordinances.

The purpose of this ordinance is to provide the Village a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of costs. This ordinance provides for the health, safety and welfare of the residents of the Village as they use the rights-of-way of the Village, as well as to ensure the structural integrity of the public rights-of-way. The Village desires to minimize and anticipate the number of excavations taking place thereon and to regulate the placement of facilities within the rights-of-way to ensure that they remain available for public services. The taxpayers of the Village bear the financial burden for the upkeep

of the rights-of-way. A primary cause for the early and excessive deterioration of its rights-of-way is the frequent excavation by persons who locate facilities therein.

Under this chapter, all persons who excavate, obstruct and/or occupy the public rights-of-way will reimburse the Village's administrative, ongoing management and degradation costs. Right-of-way users will bear a fair share of the financial responsibilities for the integrity of the public rights-of-way.

(b) Definitions. The following definitions apply in this ordinance. References hereafter to "sections" are unless otherwise specified references to sections in this ordinance. Defined terms remain defined terms whether or not capitalized.

(1) "Alternative Telecommunications Utility Other" has the meaning in §196.01, Wis. Stats.

(2) "Applicant" means any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

(3) "Degradation" means the accelerated depreciation of the right-of-way, caused by an excavation of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

(4) "Department" means the Department of Public Works of the Village, whether formally constituted or not, and shall include the Roads, Sewer and Water Departments of the Village and the Village Building Inspector.

(5) "Department Inspector" means any person authorized by the Department to carry out inspections related to the provisions of this chapter.

(6) "Emergency" means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

(7) "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

(8) "Facilities" means all equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include, but is not limited to, poles,

wires, pipes, structures and appurtenances.

(9) "In" when used in conjunction with "right-of-way", means over, above, in, within, on or under a right-of-way.

(10) "Local Representative" means a local person or persons or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this ordinance.

(11) "Obstruct" means to place any object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

(12) "Occupy" means to dwell or reside above, on, in, or below the boundaries of the public rights-of-way.

(13) "Permittee" means any person to whom a permit to excavate or occupy a right-of-way has been granted by the Village under this chapter.

(14) "Person" means, municipality, corporation, company, association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

(15) "PSC" means the Public Service Commission of the State of Wisconsin.

(16) "Public Utility" has the meaning provided in §196.01(5), Wis. Stats.

(17) "Registrant" means any person who has registered with the Village (1) to have its facilities located in any right-of-way, or (2) to use or seek to occupy or use the right-of-way or any facilities in the right-of-way.

(18) "Repair" means to perform construction work necessary to make the right-of-way useable for travel, according to Department specifications, or to return facilities to an operable condition.

(19) "Repair Bond" means a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation repair work is completed in both a timely and quality manner, per Department specifications.

(20) "Restore or Restoration" means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is reconstructed according to Department specifications.

(21) "Restoration Bond" means a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation restoration work is completed in both a timely and quality manner, per Department specifications.

(22) "Right-of-Way" means the surface and space above and below a public roadway, highway, street, bicycle lane and public sidewalk in which the Village has an interest, including other dedicated rights-of-way for travel purposes.

(23) "Service" or "Utility Service" includes municipal sewer and water services and also includes, except as provided herein, but is not limited to (1) those services provided by a public utility as defined in §196.01(5), Wis. Stats.; (2) telecommunications, pipeline, fire and alarm communications, water, electricity, light, heat, cooling energy or power services; (3) the services provided by a district heating or cooling system; and (4) cable service as defined and regulated under 47 U.S.C. 521 through 573. Wireless telecommunications service and cellular mobile radio telecommunications (CMRS) services as defined by Section 332(d) of the Federal Communications Act of 1996 (47 U.S.C. 332(d)(1)) are excluded, unless these services have a presence in the right-of-way.

(24) "Supplementary Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

(25) "Telecommunications Carrier" has the meaning in §196.01, Wis. Stats.

(26) "Telecommunications Provider" has the meaning in §196.01, Wis. Stats.

(27) "Telecommunications Rights-of-Way User" means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data

information. This includes telecommunications providers, utilities, ATUs and carriers. For purposes of this chapter, a cable telephone system defined and regulated under §66.082(2)(d), Wis. Stats., and telecommunication activities related to providing natural gas or electric energy services, and which are not offered for resale as telecommunications services, are not telecommunications right-of-way users.

(28) "Telecommunications Service" means the offering for sale or the conveyance of voice, data or other information at any frequency over any part of the electromagnetic spectrum, including the sale of service for collection, storage, forwarding, switching and delivery incidental to such communication and including the regulated sale of customer premises equipment. Telecommunications Service does not include cable television service, wireless service or broadcast service.

(29) "Telecommunications Utility" has the meaning in §196.01, Wis. Stats.

(30) "Unusable Facilities" means facilities in the right-of-way which have remained unused for one (1) year and for which the registrant is unable to provide proof that it has either a plan to begin using them within the next twenty-four (24) months or a potential purchaser or user of the facilities.

(31) "Village" means the Village of Paddock Lake, a Wisconsin Municipal Corporation.

(c) Administration. The Village Building Inspector is responsible for the administration of the rights-of-way, and the permits and ordinances related thereto on behalf of the Village.

(d) Registration for Right-of-Way Occupancy.

(1) Registration. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or any facilities in the right-of-way, including by lease, sublease or assignment, or who has, or seeks to have, facilities located in any right-of-way shall register with the Department and pay the fee set forth in §6.05(f), below. Registration will consist of providing application information and paying a registration fee.

This section shall not apply to those persons exclusively utilizing facilities provided by



another right-of-way user.

(2) Registration prior to work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the Village.

(3) Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a Village ordinance requiring persons to plant or maintain the tree lawn in the area of the right-of-way between their property and the street curb, construct sidewalks, install street signs or perform other similar activities. Persons performing such activities shall not be required to obtain any permits under this chapter.

(e) Registration Information.

(1) Information required. The information provided to the Village at the time registration shall include, but not be limited to:

(a) Each registrant's name, Digger's Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.

(b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(c) All right-of-way users shall demonstrate to the satisfaction of the Village the financial capability to cover any liability which might arise out of their presence in the right-of-way.

(d) If the person is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified to by the Secretary of State.

(e) A copy of the person's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said

commission or other state or federal agency.

(f) Execution of an indemnification agreement in a form prescribed by the Village, which is consistent with, and shall not exceed the obligations provided in §6.05(w) herein.

(2) Notice of changes. The registrant shall keep all of the information listed above current at all times by providing to the Department information as to changes within fifteen (15) working days following the date on which the registrant has knowledge of any change.

(f) Registration Fee.

(1) Registration fee. The Village Building Inspector shall establish the registration fee in an amount sufficient to recover the costs incurred by the Village for processing registrants. This fee shall be computed as the average of labor costs, indirect costs, and other costs associated with registration.

(2) Fee computation. The Village may recalculate, and by resolution, establish the registration fee.

(g) Excavation Permit Requirement.

(1) Excavation permit required. Except as otherwise provided in this chapter or other chapters of the Village ordinances, no person shall excavate any right-of-way or place facilities in a right-of-way without first having obtained an excavation permit from the Department.

No person shall excavate the right-of-way or maintain an excavation in the right-of-way beyond the date or area specified in the permit unless such person makes a supplementary application or another excavation permit before the expiration of the initial permit, pursuant to §6.05(n), below, and a new permit or permit extension is granted.

(2) Permit display. A copy of any permit issued under this chapter shall be made available at all times by the permittee at the indicated work site and shall be available for inspection by the Department upon request.

(h) Excavation Permit Application. Application for a permit shall be made to the Department. Permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(1) Registration with the Department if required by this chapter;

(2) Submission of a completed permit application form, including all required attachments, and scaled drawing showing the location and area of the proposed project and the location of all existing and proposed facilities;

(3) Payment of all money due to the Village for:

(a) applicable permit fees and costs as set forth below;

(b) unpaid fees or costs due for prior excavations; or

(c) any loss, damage or expense suffered by the Village because of applicant's prior excavations of the rights-of-way or any emergency actions taken by the Village.

(4) When an excavation permit is requested for purposes of installing additional facilities, and the posting of a restoration bond for the additional facilities is insufficient, the posting of an additional or larger restoration bond for the additional facilities may be required.

(i) Excavation Permit Fee.

(1) Fee calculation. The excavation permit fee shall be established by the Department in an amount sufficient to recover the costs incurred by the Village. This fees shall recover costs incurred by the Village for each of the following categories as provided herein:

(a) Administrative. The general formula for computing the administrative fee shall be the average per-permit costs for labor plus indirect and other costs.

(b) Repair. No repair fee shall be collected by the Village, however, the permittee shall be required to repair the public right-of-way to Department specifications, subject to inspection and acceptance by the Department, as per §6.05(j), and to pay a degradation fee.

(c) Degradation. The general formula for computing the degradation fee shall be the cost per square yard for street, overlay and

seal coat multiplied by the appropriate depreciation rate for that street multiplied by the area of the patch.

The area of the patch shall be calculated by adding two (2) feet to each side of the actual street cut. Depreciation schedules shall be provided by type of street.

Degradation Fee = (cost per square yard for street, overlay and sealcoat) x (depreciation schedule rates) x (area of patch)

The total excavation permit fee shall be calculated as follows:

Total excavation permit fee = administrative cost + degradation fee (if applicable).

(2) Village exemption. Notwithstanding subparagraph (i)(1)(c), the Village and its contractors shall not pay degradation fees.

(3) Payment of permit fees. No excavation permit shall be issued without payment of applicable fees.

(4) Non-refundable. Permit fees paid for a permit that the Department has revoked for a breach as stated in §6.05(q) are not refundable.

(j) Right-of-Way Repair.

(1) Timing. The work to be done under the excavation permit, and the repair of the right-of-way as required herein, must be completed within the dates specified in the permit.

(2) Repair. In addition to repairing its own work, the permittee must repair the general area of work, and the surrounding areas, including the paving and its foundations, to the specifications of the Department. The Department shall inspect the area of the work and accept the work when it determines that proper repair has been made, per specifications of the Department.

A permittee may request to have the Village repair the right-of-way.

(a) Village repair. If the permittee requests to have the Village repair the

right-of-way, the Village may accept or reject the request at its sole option. If the Village accepts, the permittee shall be billed for the Village's costs, and shall pay the amount thereof within thirty (30) days of billing.

(b) Permittee repair. If the permittee chooses to repair the right-of-way, it shall at the time of application for an excavation permit post a repair bond in an amount determined by the Department to be sufficient to cover the cost of repairing the right-of-way to Department specifications. If, thirty-six (36) months after completion of the repair of the right-of-way, the Department determines that the right-of-way has been properly repaired, the repair bond shall be released.

(3) Standards. The permittee shall perform repairs according to the specifications of the Department and/or in the conditions specified in the permit. The Department shall have the authority to prescribe the manner and extent of the repair, and may do so in written procedures of general application or on a case-by-case basis.

(4) Guarantees. The permittee guarantees its work and shall maintain it for thirty-six (36) months following its completion, except for organic material which shall be maintained for twelve (12) months. During this period it shall, upon notification from the Department, correct all repair work to the extent necessary, using the method required by the Department. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Department not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under §6.05(p).

(5) Failure to repair. If the permittee fails to repair the right-of-way in the manner and to the condition required by the Department, or fails to satisfactorily and timely complete all repair required by the Department, the Department at its option may do such work. In that event the permittee shall pay to the Village, within thirty (30) days of billing, the cost of repairing the right-of-way. If permittee fails to pay as required, the Village may exercise its rights under the repair bond.

(k) Restoration in Lieu of Repair and Degradation. The permittee may elect to restore the excavation and surrounding pavement in lieu of repair and a degradation fee. If restoration is elected, the Department shall specify the area to be restored, and the methods and materials to be used for the restoration. The permittee shall then also comply with the preceding §6.05(j), subparagraphs (1) through (5) as applied to restoration instead of repair.

(l) Inspection.

(1) Notice of completion. When the work under any permit hereunder is completed, the Permittee shall notify the Department.

(2) Site inspection. Permittee shall make the work site available to the Department and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(3) Authority of Department. At the time of inspection, the Village may order the immediate cessation of any work which poses a threat to the life, health, safety or well being of the public. The Village may issue an order to the registrant for any work that does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant shall present proof to the Department that the violation has been corrected. If such proof has not been presented within the required time, the Department may revoke the permit pursuant to §6.05(q).

(m) Ongoing Management Fees.

(1) Fee basis. Fees shall reflect the ongoing or long-term costs to the Village of managing access to the right-of-way. These costs are exclusive of administrative costs collected under excavation permit fees. Fees shall be initially set, and may be annually recomputed, to recover the costs incurred by the Village in ongoing management of the right-of-way. Ongoing management costs include, but are not limited to, inventory maintenance, facility tracking, GIS, tree trimming, grass mowing, right-of-way maintenance, location marking and general inquiries related to public right-of-way users. The fee shall be based on the number of feet of right-of-way occupancy by a telecommunications right-of-way user.

The per foot management fee shall be calculated as follows:

Annual management fee per foot = total annual management cost/total ROW occupancy feet

(2) Payment of fees. Ongoing management fees shall be subject to adjustment and correction at the conclusion of the calendar year. Such fees shall be paid for all and any part of a calendar year, prorated on a daily basis, during any time period in which the said person:

(a) Uses or occupies the right-of-way to furnish telecommunications service, or

(b) Places, maintains or uses the person's wires, mains, pipes, or any other facilities in the right-of-way.

(n) Joint Applications.

(1) Joint application. Registrants may jointly apply for permits to excavate the right-of-way at the same place and time.

(2) With village projects. Registrants who join in a scheduled excavation performed by the Village, whether or not it is a joint application by two (2) or more registrants or a single application, are not required to pay the degradation portion of the excavation permit fee.

(3) Shared fees. Registrants who apply for permits for the same excavation, which the Department does not perform, may share in the payment of the excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(o) Supplementary Applications.

(1) Limitations on area. An excavation permit is valid only for the area of the right-of-way specified in the permit. No permittee may perform any work or excavate outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be excavated must, before working in that greater area (1) make application for a permit extension and pay any additional fees required thereby, and (2) be granted a new permit or permit extension.

(2) Limitation on dates. An excavation permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit.

(3) Fees for supplementary applications. A permittee shall pay administration costs for any additional permits.

A permittee is not required to pay an additional degradation fee for the same excavation, if one has already been paid on the original permit.

(p) Other Obligations.

(1) Compliance with other laws. Obtaining a permit to excavate and/or occupy the right-of-way does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other village, county, state, or federal laws. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(2) Prohibited work. Except in an emergency, or with the approval of the Department, no right-of-way excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

(q) Revocations, Suspensions, Refusals to Issue or Extend Permits.

(1) Grounds. The Department may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:

(a) The applicant or permittee is required by §6.05(d) to be registered and has not done so;

(b) Issuance of a permit for the requested date would or interfere with an exhibition, celebration, festival or other event;



- (c) Misrepresentation of any fact by the applicant or permittee;
- (d) Failure of the applicant or permittee to maintain required bonds and/or insurance;
- (e) Failure of the applicant or permittee to complete work in a timely manner;
- (f) The proposed activity is contrary to the public health, safety or welfare;
- (g) The extent of which right-of-way space where the permit is sought is available;
- (h) The competing demands for the particular space in the right-of-way;
- (i) The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the permit applicant;
- (j) The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way.
- (k) The condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction; or
- (l) The applicant or permittee is otherwise not in full compliance with the requirements of this chapter or state or federal law.

(2) Discretionary issuance. Notwithstanding subparagraph (1), above, the Department may issue a permit where issuance is necessary (a) to prevent substantial economic hardship to a customer of the permittee or applicant, or (b) to allow such customer to materially improve its utility service, or (c) to allow the permittee or applicant to comply with state or federal law or Village ordinance or an order of a court or administrative agency.

(3) Appeals. Any person aggrieved by a decision of the Department revoking, suspending, refusing to issue or refusing to extend a permit may file a request for review with the Village Board. A request for review shall be filed within ten (10) days of the decision being appealed. Following a hearing, the Village Board may affirm, reverse or modify the decision of the Department.

(r) Work Done Without a Permit.

(1) Emergency situations. Each registrant shall immediately notify the Village by verbal notice on an emergency phone number provided by the Village of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith and otherwise fully comply with the requirements of this Chapter.

If the Village becomes aware of an emergency regarding a registrant's facilities, the Department may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The Village may take whatever action is deemed necessary to protect the public safety as a result of the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(2) Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit excavates a right-of-way must subsequently obtain a permit, and shall in addition to any penalties prescribed by ordinance, pay double the normal fee for said permit, pay double all the other fees required by this chapter or other chapters of the Village code, deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

(s) Supplementary Notification. If the excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Department of the accurate information as soon as this information is known.

(t) Location of Facilities.

(1) Under grounding. Under conformity with local, state and federal law, unless existing above-ground facilities is used or specific advance written permission is obtained by the Department for the installation of above-ground facilities, the installation of new facilities and replacement of old facilities shall be done under ground or contained within buildings or other

structures in conformity with applicable codes.

(2) Corridors. The Department may assign specific corridors within the right-of-way, consistent with Wisconsin Public Service Commission standards. All excavation or other permits issued by the Department involving the installation or replacement of facilities shall designate the property corridor for the facilities at issue consistent with the Wisconsin Public Service Commission's corridor selection standards.

(3) Limitation of space. The Department may prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of persons to occupy and use the right-of-way. In making such decision, the Department shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but may prohibit or limit the placement of new or additional facilities when required to protect the public, health, safety or welfare.

(u) Relocation of Facilities. Except as prohibited by state or federal law, a registrant must promptly and at its own expense with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever the Department requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation. The Department may make such request to prevent interference by the company's facilities with (i) a present or future Village use of the right-of-way, (ii) a public improvement undertaken by the Village, (iii) an economic development project in which the Village has an interest or investment, (iv) when the public health, safety and welfare require it, or (v) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor.

(v) Interference With Other Facilities During Municipal Construction. When the Village performs work in the right-of-way and finds it necessary to maintain, support, shore or move a registrant's facilities, the Village shall notify the local representative. The registrant shall meet with the Village's representative within twenty-four (24) hours and coordinate the protection, maintenance, supporting, and/or shoring of the

registrant's facilities. The registrant shall accomplish the needed work within seventy-two (72) hours, unless the Village agrees to a longer period.

In the event that the registrant does not proceed to maintain, support, shore or move its facilities, the Village may arrange to do the work and bill the registrant, said bill to be paid within thirty (30) days.

(w) Indemnification. Permittee expressly acknowledges and agrees, by acceptance of the permit, to indemnify, defend and hold harmless the Village, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the Village or its agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the permittee's acts or omissions in the exercise of its rights under this permit, whether caused by or contributed to by the Village or its agents or employees.

(x) Abandoned Facilities.

(1) Discontinued operations. A registrant who has determined to discontinue its operations in the Village must either:

(a) Provide information satisfactory to the Department that the registrant's obligations for its facilities under this chapter have been lawfully assumed by another registrant; or

(b) Submit to the Department a proposal and instruments for dedication of its facilities to the Village. If a registrant proceeds under this clause, the Village may, at its option:

(1) accept the dedication for all or a portion of the facilities; or

(2) require the registrant, at its own expense, to remove the facilities in the right-of-way at ground or above ground level; or

(3) require the registrant to post a bond or provide payment sufficient to reimburse the Village for reasonably anticipated costs to be incurred in

removing the facilities.

However, any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way within two (2) years, unless the Department waives this requirement.

(2) Abandoned facilities. Facilities of a registrant who fails to comply with §6.05(x)(1), above, and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Village may, at its option (i) abate the nuisance, (ii) take possession of the facilities, or (iii) require removal of the facilities by the registrant, or the registrant's successor in interest.

(3) Public utilities. This section shall not apply to a public utility as defined by §916.01(5), Wis. Stats.

(y) Reservation of Regulatory and Police Powers. The Village, by the granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person under this chapter does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or maybe hereafter granted to the Village under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the permittee; and the permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this chapter agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the Village, shall be in full force and effect and subject to the exercise thereof by the Village at any time. A permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the Village to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the Village pursuant to such powers.

(z) Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

## 6.06 OBSTRUCTIONS AND ENCROACHMENTS.

(a) Prohibited. No person shall encroach, obstruct, or encumber any street, alley, sidewalk, or land dedicated to public use, or permit the same on any public way adjoining the premises of which he is the owner or occupant, except as provided in subsection (b).

(b) Exceptions. The prohibition of this section shall not apply to the following:

(1) signs or clocks attached to buildings which project not more than 6 feet from the fact 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 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 Section 6.07 of this Code.

(6) Excavations and openings permitted under Section 6.05 of this Code.

## 6.07 STREET PRIVILEGE PERMIT.

(a) When Required. Permits for the use of the streets, alleys, sidewalks, street right-of-ways and other public ways or places of the Village may be granted to applicants by the Building Inspector for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or right-of-way with materials necessary in and about the construction or demolition of any building or structure, or in connection with the construction of any improvement when such permit is deemed necessary by the Building Inspector. In addition, a street privilege permit shall be required in case of the construction of a primary residence or any commercial building. Such applicant, though, must comply with the other requirements of this subsection and obtain a building permit, if required by the building regulations of the Village. Applications shall be made for a street privilege permit at the time of application for a building permit and the building inspector shall, at that time,

determine if such street privilege permit is required. It is the specific intent of the Village Board of Trustees to eliminate damages to public streets and adjacent right-of-ways during the construction of improvements on private lots and, as such, there shall be a presumption that a street privilege permit is necessary and that a bond shall be required unless deemed unnecessary by the Building Inspector. No building permit shall be issued until such time as the Building Inspector determines whether a street privilege permit is required.

(b) Bond. No street privilege permit shall be issued until the applicant executes and files with the Village Clerk/Treasurer a bond, in cash or certified funds, in the sum of Seven Hundred Fifty (\$750.00) Dollars. Such bond must indemnify and save harmless the Village from any and all liabilities for accidents or damage caused by reason of operations under said permit, and guarantee that the permittee 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. The permittee shall restore all Village property to the condition of said property prior to the issuance of the permit which shall include, but will not be limited to, the removal of construction debris, tree limbs, branches or trunks, grading and restoration of ditch lines. In the event any damage is incurred to streets or public improvements or land, or any cleanup costs are incurred by the Village, then, upon three (3) days notice to applicant, the Village may forfeit such sums as are necessary from the bond to complete repairs or cleanup of the affected area. In addition, in the event that the bond posted hereunder is insufficient to complete repairs to damage to streets or public improvements or public lands, or to pay for all cleanup costs incurred, then, in such event, any occupancy permit may be withheld by the Building Inspector in connection with the construction until such time as all repairs or cleanup of the affected area have been completed.

(c) Fee. The fee for a street privilege permit shall be One Hundred (\$100.00) Dollars.

(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 Building Inspector 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 Building Inspector shall continue during all hours of the day or night.

(5) No building or structure shall be allowed to remain in an area which would prevent easy access to any fire hydrant.

(6) Buildings shall be moved only in accordance with the route prescribed by the Building Inspector.

(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.

#### 6.08 REMOVAL OF STREET ENCROACHMENT.

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 Building Inspector to do so, it shall be the duty of the Building Inspector to remove such obstruction and report the cost and expense to the Village Clerk/Treasurer. The cost shall then be entered on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and be collected as other special taxes against real estate.

#### 6.09 SNOW AND ICE REMOVAL.

(a) Commercial. The owner, occupant or person in charge of a building or structure or unoccupied lot in the B-1, B-2, I-1, M-2, M-1, P, RM-1, RD-1 zoning districts, abutting State Highway 50, State Highway 83 or State Highway 75 or 236<sup>th</sup> Avenue, shall clean the pedestrian sidewalk, curb ramps and handicap accessible curb ramps in front of or adjoining each building or unoccupied lot of any and all snow and ice which has fallen or accumulated upon the sidewalk or curb ramps in front of or adjacent to the premises owned or occupied or cared for no



later than 12:00 noon of each day and shall cause the same to be kept clear from ice and snow. When the ice has formed on any sidewalk or curb ramp so that it cannot be immediately removed, such person shall keep the same treated with deicing material (salt) or sand.

(b) Residential. The owner, occupant or person in charge of a building or structure or unoccupied lot in the R-1, R-2 or R-3 residential zoning districts shall clean the pedestrian sidewalk, curb ramps and handicap accessible curb ramps in front of or adjoining each building or unoccupied lot of any and all snow and ice which has fallen or accumulated upon the sidewalk or curb ramps in front of or adjacent to the premises owned or occupied or cared for no later than 12:00 midnight of the day following each snow event and shall cause the same to be kept clear from ice and snow. When the ice has formed on any sidewalk or curb ramp so that it cannot be immediately removed, such person shall keep the same treated with deicing material (salt) or sand.

(c) Penalty. Any owner, occupant or person in charge of a building or structure or unoccupied lot in the Village fronting or abutting any street who fails to remove snow and/or ice as required by subsections (a) or (b), above, shall be liable to the Village for the costs of removal of the same, which costs shall be at the rate of One Hundred Fifty (\$150.00) Dollars for the first hour or any fraction thereof, and One Hundred (\$100.00) Dollars per hour thereafter. Such costs shall be payable within ten (10) days of billing and may be imposed as a lien against the real property as a special assessment until paid.

#### 6.10 TREES.

(a) Overhanging Street and Located Upon Village Property and Right-of-Ways. Trees standing in and upon any public street or place or Village right-of-way shall be the responsibility of the Village and trees and shrubbery upon any adjacent lot or land abutting any public street, place or right-of-way shall be pruned and trimmed by the owners or occupants of the property on or in front of which such trees are growing. The lowest branches projecting over any public street or alley must provide a clearance of not less than 14 feet and a clearance of not less than 10 feet over any right-of-way or other public place. Any dead, broken, or otherwise hazardous branches likely to fall and do injury to the public or which might create a nuisance must be trimmed. Any tree or shrubbery not trimmed as herein provided shall be deemed hazardous.

(b) Hazardous and Infected Trees. Any tree which the Weed Commissioner 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 Weed Commissioner shall give written notice to the owner to remedy the situation. Such notice shall be served personally or posted upon the affected tree, and 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 Weed Commissioner. If the owner shall fail to remove, treat or trim the tree within the time limited, the Weed Commissioner shall cause the tree to be removed, treated or trimmed and shall report the full cost to the Village Clerk/Treasurer who shall then enter such cost as a special charge against the property.

(c) Cottonwood and Box Elder Trees Prohibited. No person shall plant or maintain within the Village of Paddock Lake any female tree of the species *Populus Deltiodes*, 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 Weed Commissioner, the Weed Commissioner 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.

(d) Planting of Certain Trees Restricted. No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar, or any fruit or nut trees in or upon any public street, parkway, boulevard or other public place within the Village of Paddock Lake unless he shall first secure written permission from the Weed Commissioner, who shall not approve any such planting if in his opinion the 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 Weed Commissioner shall cause the removal of any tree planted in violation of this subsection.

#### 6.11 DAMAGES TO OR OBSTRUCTION OF STREETS.

(a) Prohibitions. No person, whether natural or corporate, shall be any of the following:

- (1) Litter or deposit any foreign matter on any street, highway, sidewalk, park or public place, except building materials and merchandise as permitted under this ordinance or as otherwise may be permitted by the Village Board or the Village Building Inspector.

(2) No person shall damage or deface any street, highway, sidewalk, public way, park or other public property, or any post, wire, lamp, street sign, traffic sign, tree, grass, vegetation, gutter, drain, manhole or any other appurtenance thereon, except as may be authorized by the Village Board or Village Building Inspector.

(3) No person shall obstruct or endanger the free passage or proper use of the public of any street, sidewalk, highway or public place, except as may be permitted by the Village Board or the Village Building Inspector.

(4) No person shall commence or continue any construction, place construction vehicles or equipment on any Village road or road right-of-way, or otherwise take any action which will, in the opinion of the Village Building Inspector, adversely impact the condition or proper use of any public street, sidewalk, highway, right-of-way or other public property without first posting a street bond and obtaining a building permit from the Village Building Inspector.

(b) Permits. When, upon reviewing applications for building permits under Chapter 12 of these ordinances that it will be necessary for the applicant to obtain a street and/or sidewalk permit then the applicant shall be required to comply with §6.05 or §6.07 of these ordinances prior to the issuance of any building or zoning permit. In addition to any other conditions which may be imposed by the Village Building Inspector for the issuance of a building or zoning permit, or a street or sidewalk permit under §6.05 or §6.07, the Village Building Inspector may consider and impose other conditions precedent to the issuance of any such permit(s) including, but not limited to, the following:

(1) Prohibiting any tracked vehicles on the public roadway or road right-of-way unless steel mats or other provisions which meet with the satisfaction of the Village Building Inspector are utilized so as to prevent damage to Village roads and road right-of-way.

(2) Provision for adequate off right-of-way parking during periods of construction and prohibition of overnight parking of construction equipment and trucks on any portion of the road right-of-way.

(3) Twenty-four (24) hours advance notice of working on any street right-of-way with a plan submitted and approved in advance for the erection

of barricades, detour signs, cones or other markers pursuant to subsection (c) of this ordinance.

(4) The prohibition of the use of a sewer lateral for draining any foundation during the construction phase, with appropriate measures or additional bonding to enforce such sanction.

(5) Withholding the issuance of final occupancy permit(s) until such time as all permit conditions and/or ordinance provisions have been met.

(c) Protection of Work in Streets. Any person doing work in any street, highway, sidewalk or other public place shall maintain suitable barricades to prevent injury to any person or vehicles by reason of the work. Barricades shall be protected by suitable lights at night. Any defect in any pavement shall be barricaded to prevent injury. Any person maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open, by proper barricades or lights. No person shall interfere with or disturb any barricades or lights lawfully placed to prevent or to make new pavement or excavation or opening in any street highway or sidewalk.

(d) Penalty. Any person who violates any provision of this ordinance, in addition to such other remedies as may be available to the Village, shall forfeit a sum of not less than Fifty (\$50.00) Dollars nor more than One Thousand (\$1,000.00) Dollars for such violation and shall be liable to the Village for all costs of prosecution of such action and for all consequential damages incurred by the Village in repairing or restoring Village property or removing equipment, obstructions or other matter from Village property. For purposes of this section, each day in which a condition violative of this ordinance shall constitute a separate offense.

6.12 RESERVED.

6.13 RESERVED.

6.14 RESERVED.

6.15 VEHICLES TRANSPORTING SEPTIC OR HOLDING TANK WASTE

Pursuant to Section 349.16 of the Wisconsin Statutes, no person shall operate any vehicle where the primary purpose of such vehicle is to pump and/or haul septic or holding tank waste on any village street, highway or roadway except on state highways and county trunk roads and except on 234th Avenue and

235th Avenue north of 62nd Street and on 62nd Street between 234th Avenue and 235th Avenue. The Village Board shall determine, from time to time, such amounts as the Board deems necessary to be segregated from fees received by the Village under contract with sanitary waste disposal firms to be utilized for the repair, maintenance and replacement of village roadways damaged by the vehicles of this type.