THE CITY OF KENOSHA
CHART A BETTER COURSE

Agenda
Public Safety & Welfare Committee Meeting
625-52nd St, Rm 204
Monday, November 14, 2016
4:30pm

Chairperson:	Rocco J. LaMacchia, Sr	Vice Chairperson:	Jack Rose
Alderperson:	Jan Michalski	Alderperson:	Eric Haugaard
Alderperson:	Keith W. Rosenberg		

Call to Order
Roll Call
Citizens Comments

Approval of the Minutes of the Meetings Held October 24, 2016 & October 31, 2016.

1. Ordinance by The Mayor - To Repeal Section 5.04 *(Of The Code Of General Ordinances)* In Its Entirety Entitled "Streets, Alleys, And Sidewalks", And To Recreate Section 5.04 *(Of The Code Of General Ordinances)* Entitled "Public Utilities, Right-of-Way Excavation, Streets, And Alleys. *(Also referred to Public Works) (1st Reading-On Council Agenda 11/7/16)* **PUBLIC HEARING**

2. Aldermanic Request for a Yield Sign at the Intersection of 56th Avenue and 50th Street. *(District 16) (Staff recommends 90-Day Trial)* **PUBLIC HEARING**

3. Aldermanic Request for the Analysis of Parking Restrictions on 55th Street for Curtis Strange Elementary. *(District 11) (Staff recommends 90-Day Trial)* **PUBLIC HEARING**

4. Discussion Item: Truck Traffic

ALDERPERSONS' COMMENTS

IF YOU ARE DISABLED AND NEED ASSISTANCE, PLEASE CALL 653-4050 BY NOON BEFORE THIS MEETING TO MAKE ARRANGEMENTS FOR REASONABLE ON-SITE ACCOMMODATIONS.

PUBLIC SAFETY & WELFARE COMMITTEE
Minutes of Meeting held Monday, October 24, 2016

A special meeting of the Public Safety & Welfare Committee was held on Monday, October 24, 2016 in Room 301 of the Kenosha Municipal Building. The meeting was called to order at 5:20 PM by Chairperson LaMacchia.

At roll call, the following members were present: Alderpersons Michalski, and Haugaard. Alderpersons Rose and Rosenberg were excused. Staff members in attendance were Mayor Antaramian, City Administrator Frank Pacetti, Finance Director Carol Stancato, Chief Miskinis, Deputy Chief Poltrock, Community Development & Inspections Director Jeff LaBahn, Tony Geliche, Human Resources Director Steve Stanczak, Sue Clouthier, and various staff from the Police and Fire Departments.

Citizen Comments: Ricardo Lebron, 10825 68th Place spoke regarding the number of Paramedics on staff at each station and the need for more certified line Paramedics.
No one else spoke.

Mayor Antaramian gave an overview. City Administrator Pacetti also spoke regarding the overview.

1a. Police Department 2017 Executive Budget

Staff/Alderpersons: Chief Miskinis gave an overview including additional positions and notable budget changes. Alderperson Michalski questioned the personnel count change in Street Crimes and commented on partnering with Kenosha County to deal with heroin issues. Chief Miskinis commented on staffing levels. City Administrator Pacetti commented on the Joint Services budget highlights.

It was moved by Alderperson Michalski, seconded by Alderperson Haugaard to open the meeting to a public hearing. Motion passed 3-0.

Anthony Kennedy, 4223 49th Ave spoke regarding the new Sergeant position, overtime, and canine funding. Public hearing closed.

It was then moved by Alderperson Haugaard, seconded by Alderperson Michalski to approve the 2017 Police Department executive budget as presented. Motion passed 3-0.

1b. Police Department 2017-2021 CIP

Mayor Antaramian spoke about body cameras and the need for legislature to pass rules regarding their use before going to a system. Chairperson LaMacchia passed the gavel and commented on body cameras and data storage.

It was moved by Alderperson Michalski, seconded by Alderperson Haugaard to open the meeting to a public hearing. Motion passed 3-0.

Anthony Kennedy questioned vehicle trade-in's, Finance Director Stancato answered that vehicles go to auction and the proceeds go to the General Fund. Public hearing closed.

It was moved by Alderperson Michalski, seconded by Alderperson Haugaard to approve the 2017-2021 Police Department CIP as presented. Motion passed 3-0.

Chairperson LaMacchia called for a 5 minute recess at 5:45 pm.

2a. Fire Department & Emergency Medical Services 2017 Executive Budgets

Staff/Alderpersons: Deputy Chief Poltrock introduced the three candidates for Fire Chief to the Committee and gave an overview of the budget. Mayor Antaramian discussed current and long term staffing. Alderperson Michalski commented on Firefighter positions. Chairperson LaMacchia commented on the Office Associate position and adding additional Paramedics down the line. Alderperson Michalski spoke regarding hiring personnel with certifications in place. Deputy Chief Poltrock commented about bringing training requirements to the Police and Fire Commission.

It was moved by Alderperson Haugaard, seconded by Alderperson Michalski to approve the 2017 Fire Department and Emergency Medical Services executive budgets as presented. Motion passed 3-0.

2b. Fire Department 2017-2021 CIP

Deputy Chief Poltrock discussed ambulance purchases, and Mayor Antaramian gave a overview of the proposed combined Fire station on the Bain school site.

It was moved by Alderperson Haugaard, seconded by Alderperson Michalski to approve the 2017-2021 Fire Department CIP as presented. Motion passed 3-0.

3a. Department of Community Development and Inspections 2017 Executive budget

Staff/Alderpersons: Director LaBahn gave a department overview and stated they are at full staff. Mayor Antaramian also commented. Chairperson LaMacchia asked about the latest hire, and that the person be brought to the next Committee meeting for introductions. Director LaBahn spoke regarding the benefits of in the field staff having tablets. City Administrator Pacetti also commented on the project.

It was moved by Alderperson Michalski, seconded by Alderperson Haugaard to approve the 2017 Community Development and Inspections executive budget as presented. Motion passed 3-0.

3b. Department of Community Development and Inspections 2017-2021 CIP

Director LaBahn gave an overview. Mayor Antaramian commented on property maintenance. Alderperson Michalski added that he would like to see more funds for demolition.

It was moved by Alderperson Haugaard, seconded by Alderperson Michalski to approve the Department of Community Development and Inspections 2017-2021 CIP as presented. Motion passed 3-0.

4. Health Department 2017 Executive Budget

City Administrator Pacetti commented on the health department budget.

It was moved by Alderperson Michalski, seconded by Alderperson Haugaard to approve the 2017 Health Department Executive budget as presented. Motion passed 3-0.

There being no further business to come before the Public Safety & Welfare Committee, it was moved, seconded and unanimously carried to adjourn at 6:20 PM.

PUBLIC SAFETY & WELFARE COMMITTEE
Minutes of Meeting held Monday, October 31, 2016

A meeting of the Public Safety & Welfare Committee was held on Monday, October 31, 2016 in Room 301 of the Kenosha Municipal Building. The meeting was called to order at 5:03 pm by Chairman LaMacchia.

At roll call, the following members were present: Alderpersons Haugaard and Michalski. Alderpersons Rose and Rosenberg were excused. Staff members in attendance were: Shelly Billingsley, Director of Public Works; Jeff Warnock, Superintendent of Parks; Deputy Police Chief Eric Larsen; Ken Schroeder, Battalion Fire Chief; Brian Wilke, Development Coordinator; and Alderperson John Fox.

No citizens spoke during Citizens Comments.

It was moved by Alderperson Michalski, seconded by Alderperson Haugaard, to approve the minutes from the meeting held on Monday, October 10, 2016. Motion carried unanimously.

1. Aldermanic Request for the Restriction of Parking on the East Side of 7th Avenue south of 60th Street *(District 2) (Staff recommends 90-Day Trial)*
   Public Hearing: Alderperson John Fox spoke.
   Staff: Shelly Billingsley spoke.
   It was moved by Alderperson Haugaard, seconded by Alderperson Michalski, to approve. Motion carried unanimously.

2. Aldermanic Request for the Restriction of Parking on the West Side of 28th Avenue North of Roosevelt Road *(District 8) (Staff recommends 90-Day Trial)*
   Public Hearing: Alderperson John Fox spoke.
   Staff: Shelly Billingsley spoke.
   It was moved by Alderperson Haugaard, seconded by Alderperson Michalski, to approve. Motion carried unanimously.

3. Aldermanic Request for the Analysis of Parking Restrictions on 34th Avenue for Roosevelt School *(District 8) (Staff recommends 90-Day Trial)*
   Staff: Shelly Billingsley spoke.
   It was moved by Alderperson Haugaard, seconded by Alderperson Michalski, to approve. Motion carried unanimously.

4. Previous Trial for 15-minute Parking Signs in front of St. Mathew's Episcopal Church, 5900 7th Ave. *(District 2) (Staff recommends approval)*
   Public Hearing: Alderperson John Fox spoke.
   Staff: Shelly Billingsley spoke.
   It was moved by Alderperson Haugaard, seconded by Alderperson Michalski, to approve. Motion carried unanimously.

5. Previous Trial for an Eastbound Yield Sign at the Intersection of 49th Street & 5th Avenue. *(District 2) (Staff recommends approval)*
   Public Hearing: Alderperson John Fox spoke.
   Staff: Shelly Billingsley spoke.
   It was moved by Alderperson Michalski, seconded by Alderperson Haugaard, to approve. Motion carried unanimously.

6. Previous Trial for Switching the Eastbound & Westbound Stop Signs to Northbound & Southbound Stop Signs at the Intersection of 8th Avenue & 45th Street. *(District 2) (Staff recommends approval)*
Public Hearing: Alderperson John Fox spoke.
Staff: Shelly Billingsley spoke.
It was moved by Alderperson Haugaard, seconded by Alderperson Michalski, to approve. Motion carried unanimously.

7. Request for Special Exception from the 840-square-foot Size Limitation to Construct a 960-square-foot Accessory Structure at 4603 47th Avenue *(Parcel #08-222-35-127-180). (Property Owners/ Petitioners: Christian and Marisa Solais; Zoning: RS-1/RS-2) (District 10) (Referred from Council on 10/17/16)*
Public Hearing: Anne Wright and Christian Solais spoke.
Staff: Brian Wilke spoke.
It was moved by Alderperson Michalski, seconded by Alderperson Haugaard, to approve staffs recommendation. Motion carried unanimously.

ALDERPERSONS' COMMENTS: None

ADJOURNMENT - There being no further business to come before the Public Safety & Welfare Committee, it was moved, seconded and unanimously carried to adjourn at 5:22 pm

ORDINANCE NO.

SPONSOR: THE MAYOR

TO REPEAL SECTION 5.04 OF THE CODE OF GENERAL ORDINANCES IN ITS ENTIRETY ENTITLED "STREETS, ALLEYS, AND SIDEWALKS", AND TO RECREATE SECTION 5.04 OF THE CODE OF GENERAL ORDINANCES ENTITLED "PUBLIC UTILITIES, RIGHT-OF-WAY EXCAVATION, STREETS, AND ALLEYS"

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Section 5.04 of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby repealed in its entirety.

Section Two: Section 5.04 of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby recreated as follows:

5.04 PUBLIC UTILITIES, RIGHT-OF-WAY EXCAVATION, STREETS, AND ALLEYS

A. Findings and Purpose. In the exercise of its police powers, the City has priority over all other uses of the public rights-of-way. The City desires to anticipate and minimize the number of obstructions and excavations taking place in the public rights-of-way to ensure that the rights-of-way remain available for public services and safe for public use. The taxpayers of the City bear the financial burden for the upkeep of the rights-of-way and a primary cause for the early and excess deterioration of the public rights-of-way is the frequent excavation by Person who place facilities therein.

The City finds that there has been an increase in the use of the public rights-of-way and, as a result, increased costs to the taxpayers of the City and that these costs are likely to continue into the foreseeable future.

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

1. Administrative costs associated with public rights-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 City hereby enacts this ordinance relating to the administration and permitting of excavation, obstruction and/or occupancy of the public rights-of-way, together with an ordinance making necessary revisions to other Code provisions. This ordinances imposes reasonable regulations on the placement and maintenance of facilities currently within in rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.

The purpose of this ordinance is to provide the City 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 City as they use the rights-of-way of the City, as well as to ensure the structural integrity of the public rights-of-way.

Under this chapter, all Persons who excavate, obstruct and/or occupy the public rights-of-way will reimburse the City's administrative, ongoing management and degradation costs. Right-of-way users will bear a fair share of the financial responsibility 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. Applicant means any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

2. City means the City of Kenosha.

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 City's Director of Public Works or designee.

5. City Inspector means any person authorized by the Department to carry out inspections relating 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. Encroach means to place any object in or over a right-of-way as to begin to restrict free and open passage over/under on or in that or any part of the right-of-way.

8. Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

9. 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, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

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

11. Lawn Park shall mean the area between the public sidewalk and the curbline of the street. Where there is no sidewalk, Lawn Park shall mean the area between the property line and the curbline of the street.

12. 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 chapter.

13. Obstruct means to place any object in a right-of-way as to hinder free and open passage over/under on or in that or any part of the right-of-way.

14. Occupy means to dwell or reside above, on, in, or below the boundaries of the public rights-of-way.

15. Permittee means any person to whom a permit to excavate or occupy a right-of-way has been granted by the City under this chapter.

16. Person means, municipality, corporation, company, including a "Company" defined as Wis. Stat. § 182.017(1g)(b), association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

17. PSCW means the Public Service Commission of Wisconsin.

18. Public Utility has the meaning provided in Wis. Stat. § 196.01(5).

19. Registrant means any person who has registered with the City (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.

20. 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 that is in as good or a better condition as the facilities were before the work commenced.

21. Right-of-way or **Public Right-of-way** means the surface and space above and below a public roadway, highway, street, bicycle lane, lawn park, shoulders, side slopes, and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes.

22. 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.

23. Service or utility service includes services such as municipal sewer and water services and services provided by a Public Utility or a Company subject to Wis. Stat. § 182.017 and other similar services.

24. Sidewalk shall mean the area within a street or highway right-of-way used or reserved for pedestrian traffic.

25. 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 has already been issued.

26. Unusable facilities means facilities in the right-of-way which have remained unused for one 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.

C. Administration. The Department is responsible for the administration of the rights-of-way, and the permits and ordinances related thereto.

D. Registration for Right-of-way Occupancy.

1. Registration. Each service, utility service or right-of-way user 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 on file with the Department. 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 Department.

a. Exceptions.

(1) Nothing herein shall be construed to repeal or amend the provisions of a City ordinance requiring persons to plant or maintain the lawn park in the area of the right-of-way between their property and the street curb, construct sidewalks, install street signs, erect mailboxes or perform other similar activities.

(2) City Work Excluded. The provisions of this Ordinance shall not apply to excavation work under the direction of the Department of Public Works by City employees or contractors performing work under contract with the City necessitating openings or excavations in City streets or other public

ways, which openings or excavations shall be regulated by the contract between the City and the contractor.

E. Registration Information.

1. Information Required. The information provided to the Department at the time of registration shall include, but not be limited to:

a. Each applicant/registrant's name, Diggers 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 City the financial capability to cover any liability that might arise out of their presence in the right-of-way. 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 the Secretary of State and shall be included with the registration.

d. If certified, a copy of the person's certificate of authority from PSCW 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.

e. Execution of an indemnification agreement in a form prescribed by the Department, which is consistent with, and shall not exceed the obligations provided in, **Section 5.04 V.** 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. Annual Registration Fee. Each registrant shall annually renew its registration or discontinue and properly abandon its facilities. The Department shall establish the registration fee in an amount sufficient to recover the costs incurred by the City for processing registrants. This fee shall be computed as the average of labor costs, indirect costs, and other costs associated with registration.

a. For poles and towers, following first time registration and the installation of the registrant's facilities approved under the appropriate Department permit and prior to the next annual registration the applicant/registrant shall provide the following for all existing poles and towers owned:

(1) Structural certification stamped by a registered professional engineer in the State of Wisconsin. Structural certification will include, but not be limited to structural sufficiency and vertical plumbness.

(2) Results from stray voltage testing.

2. Fee Computation. The Department may recalculate and establish a new registration fee each year and said fee shall be on file with the Department.

G. Excavation Permit Requirement.

1. Excavation Permit Required. Except as otherwise provide in this chapter or other chapters of the Municipal Code, no person shall excavate, raise or lower 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 right-of-way or maintain an excavation in the right-of-way beyond the date or are specified in the permit unless such person makes a supplementary application for another excavation permit before the expiration of the initial permit, pursuant to **Section 5.04 N.**, 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.

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

a. Registration with the Department as required by this Chapter;

b. Submission of a completed permit application form, including the following:

. **(1)** The applicant shall identify in detail the location of the proposed project and any affected right-of-way, public utility easements, and the location of all existing and proposed facilities within the project area in addition to installation details, traffic control plans and other details requested by the Department;

(2) If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant must submit:

(a) Scaled drawings of the proposed pole or tower and all proposed attachments, stamped by a Wisconsin registered professional engineer.

(b) Structural stability certification of each individual pole or tower.

(c) At the discretion of the Department, the applicant may be required to provide soil testing to ensure proper soil stability.

(d) If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant must submit evidence sufficient to demonstrate that the applicant is prohibited from using an existing pole or tower (either owned by the applicant or a third party) because such use is technically infeasible, economically prohibitive, or prohibited by law.

(e) If the proposed project involves the installation of a pole or tower in the right-of-way that is greater than 10 feet taller than existing poles or towers in nearby right-of-way, the applicant must submit evidence sufficient to demonstrate that: (i) the greater height is required to accomplish the applicant's purposes; (ii) the applicant is prohibited from using existing poles or towers (either owned by applicant

or a third party) to accomplish its purposes because such use is technically infeasible, economically prohibitive, or prohibited by law; (iii) the pole or tower, due to its height and size, poses no greater danger to the health, safety, and welfare of the public than existing poles in nearby right-of-way; and (iv) in evaluating such circumstances, the Department may employ the services of a consulting expert, the expense for which shall be reimbursed by the applicant as an administrative cost of processing the application.

(f) If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant must submit evidence to demonstrate compliance with the height limitations indicated on the City of Kenosha Airport Height Limitation Map.

c. Payment of all money due to the City for:

(1) applicable permit fees and costs as set forth below.

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

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

d. A statement on forms provided by the Department that the registrant will comply with all local, state, and federal codes including, but not limited to, safety, building, traffic control codes, and the Manual of Uniform Traffic Control Devices (MUTCD). All work is to be done according to good engineering practice that the public safety be procured, and the street be properly restored.

e. Furnish a certificate of liability insurance, naming the City as an additional insured. The following minimum insurance coverages must be in effect and continue in effect during the term of registration:

(1) Commercial General Liability
$1,000,000 Each Occurrence
$2,000,000 General Aggregate
or
$2,000,000 Combined Single Limit (each accident)
having the following coverages:
Premises
Contractual Liability
Products and Completed Operations
Death and Personal Injury

(2) Automobile Liability (any auto)
$1,000,000 Bodily Injury (per person)
$2,000,000 Bodily Injury (per accident)
$500,000 Property Damage (per accident)

(3) Worker's Compensation
Statutory Limits
$100,000 Each Accident
$100,000 Disease, Each Employee
$500,000 Disease, Policy Limit

(4) Umbrella Liability
$4,000,000 Each Occurrence
$4,000,000 General Aggregate
Umbrella liability coverage to be at least as broad as the underlying Commercial General Liability, Automobile Liability, Liquor Liability, Fireworks Liability, Statutory Liability and Employers Liability coverages.

f. Post a repair bond. Before a permit for excavating or opening any street or any other public way may be issued, the applicant must execute and deposit with the City Clerk a repair bond approved by the City Attorney in the sum of $3,000 as a guarantee that the person opening the street will pay all costs of repairing such opening. Such bond shall be further conditioned that he will observe the provisions of all State Laws, Ordinances, Rules and Regulations governing the issuance of permits under this Section. Such bonds may be filed individually for each excavation, or an annual bond may be given covering all excavation work done by the principal for one year, beginning January 1st.

g. The Department shall not deny a registrant an excavation permit because of a dispute between the City and the registrant, related to **Section 5.04 H.1.c.(2)** and/or **Section 5.04 H.1.c.(3)** if

(1) the dispute has been adjudicated in favor of the registrant;

(2) the dispute is the subject of an appeal filed by the registrant an no decision in the matter has at yet been rendered.

I. Excavation Permit Fee.

1. Fee Calculation. The excavation permit fee shall be established by the Department and shall be made payable to the City of Kenosha prior to the issuance of the permit. The Common Council will, from time to time, by resolution, establish the permit fee in an amount sufficient to recover the costs incurred by the City. This fee shall recover costs incurred by the City 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 City. However, the permittee shall be required to repair the public right-of-way to Department specifications, subject to inspection and acceptance by the Department, pursuant to **Section 5.04 J.** below, 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 generally be square and calculated by adding two feet to each side of the anticipated street cut and then, at the option of the Department, extending to the full pavement lane width. Depreciation schedules shall be provided by type of street.

The total excavation permit fee shall be calculated as follows: Total Excavation Permit Fee = Administrative Cost + Degradation Fee.

2. City Exemption. The City and its contractors shall not pay administrative and degradation fees.

3. Payment of Permit Fees. No excavation permit shall be issued without payment of applicable fees.

4. Fee Computation. The Department may recalculate and establish a new fee structure each year.

5. Non-refundable. Permit fees paid for a permit that the Department has revoked pursuant to **Section 5.04 P.** below are not refundable. If the excavation defined in the excavation permit does not proceed, upon return of the permit to the Department the degradation fee may be refunded upon approval of the Department. However, the Administrative Cost is not refundable.

J. Right-of-way Repair.

1. 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, increased by as many days as work could not be done because of circumstances beyond the control of the Permittee or when work was prohibited as unseasonable or unreasonable under **Section 5.04 P.** below.

2. In addition to repairing its own work, the Permittee must repair the general area of the 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.

3. Standards. The Permittee shall perform repairs according to the specifications of the Department and/or in accordance with 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 either period, the Permittee 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 Sec. 16-119.

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 City, within thirty (30) days of billing, the cost of repairing the right-of-way. If the Permittee fails to pay as required, the City may exercise its rights under the repair bond.

K. Inspection.

1. Notice of Completion. When the work under any permit issued hereunder is completed, the Permittee shall notify the Department.

2. Site Inspection. The 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 City may order the immediate cessation of any work that poses a threat to the life, health, safety, or well-being of the public. The City 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 **Section 5.04 P.** below.

L. Fall Radius/Breakaway Requirements.

1. Poles and other utility structures over 60 feet in height shall be located so that all residential, commercial, retail, manufacturing or other occupied buildings are outside the fall radius of the structure.

2. Rigid non-breakaway poles and other utility structures shall be located a minimum of 2’ clear from face of roadway curbs, 2’ clear from edge of sidewalk, 10’ clear from edge of traveled way behind shoulders and behind existing or future sidewalks.

M. 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 City Projects. Registrants who join in a scheduled excavation performed by the City, whether or not it is a joint application by two 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.

N. 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 shall, 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 such fee has already been paid on the original permit.

O. Other Obligations.

1. Compliance with Other Laws. Obtaining a permit to excavate and/or occupy the right-of-way does not relieve a Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City, county, State, or Federal rules, laws or regulations. A Permittee shall comply with all requirements of local, state, and 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.

3. Barriers and Warnings. Any person opening, excavating, or occupying any street, sidewalk or alley, shall place proper and sufficient barriers and guards about the same as outlined in the "Manual of Traffic Controls for Street Construction and Maintenance Operations" on file in the office of the Director of Public Works. Said manual is intended to be as much a part of the Ordinance as if it were printed in total. During the hours of dusk and darkness, adequate and sufficient warning lights shall be placed and maintained about the same. No person shall Interfere with or remove such barriers, guards, or lights.

4. Placement of Spoil Material. In opening any street or other public way, all paving or base material 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.

5. Contractors Equipment and Operations. 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. Except by special permission of the Director of Public Works, no trench shall be excavated more than 100 feet in advance of pipe laying, nor left unfilled more than 200 feet where pipe has been laid. When the side of the trench will not stand perpendicular, sheathing and bracing must be used to prevent caving. No timber, bracing, lagging sheathing, or other lumber shall be left in any trench. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such persons or his employees of any necessary precaution against injury or damage to persons, vehicles, or property of any kind.

6. Backfill and Surfacing. All openings or excavations in a street shall be backfilled with sand or gravel, meeting specifications on file in the office of the City Engineer. In refilling the opening, backfill material shall be placed in layers not exceeding 6 inches in depth and each layer rammed, or tamped, or flushed to prevent after-settling. The permittee shall notify the Department of Public Works prior to commencing backfilling, and shall only backfill while a City Inspector is present.

When a pavement opening is made in an arterial or major street, a temporary asphalt patch shall be placed by the permittee upon completion of the backfill.

All permanent pavement repairs shall be made by the City of Kenosha, unless authorized by the Director of Public Works, and all costs of maintenance and reconstruction work shall be charged to the applicant. All spoil material and rubbish shall be immediately removed, leaving the street or way in perfect repair.

No permit for pavement or sidewalk opening shall be issued to any person if any such charge for maintenance and reconstruction work remains due and unpaid.

7. Excavations in New Streets Limited. The Common Council shall approve the permanent improvement or repaving of streets not less than 30 days before the work of permanent improvement or paving shall begin. Following such approval by the Common Council, the City Engineer shall notify in writing each person, utility, City department, or other agency owning or controlling any sewer, water main, conduit, or other utility in or under said street, of the intent of the City of Kenosha to permanently improve or repave said street, and that all excavation work in said street shall be coordinated with and scheduled by the City Engineer to obtain a reasonable completion of the work. After such permanent improvement or repaving no permit shall be issued to open, cut or excavate said street for a period of 5 years after the date of improvement, or repaving unless in the opinion of the City Engineer an emergency exists which makes it necessary that the permit be issued.

8. Special Conditions. Permits for street openings in "through" streets as outlined in **Section 7.03** of the Code of General Ordinances on street openings lying within 500 feet of any school, hospital nursing home, or similar institution, will be issued conditionally upon the presence of a City Inspector at the job site during the performance of any and all work. The permittee shall pay all costs of such inspection.

P. 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 **Section 5.04 D.** to be registered and has not done so or the permit application is otherwise incomplete;

b. The applicant or Permittee is seeking to perform work not included in its construction and major maintenance plan; which work was reasonably foreseeable by the applicant or Permittee at the time said plan was filed;

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

d. Misrepresentation of any fact by the applicant or Permittee;

e. Failure of the applicant or Permittee to maintain required bonds and/or insurance;

f. Failure of the applicant or Permittee to complete work in a timely manner;

g. The proposed activity is contrary to the public health, safety or welfare;

h. The extent to which space is available in the right-of-way for which the permit is sought;

i. The competing demands for the particular space in the right-of-way;

j. The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the Permittee or applicant;

k. If the Permittee or applicant proposes to install a new pole or tower in the right-of-way, the availability of other existing poles or towers owned by the Permittee or applicant or by a third party;

l. The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;

m. The condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction; or

n. 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 Sub. (a)(2), 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 Public Utility service, or (c) to allow the Permittee or applicant to comply with state or federal law or City 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, within ten (10) days of the Department's decision being issued, file a written request with the Department seeking a review of the decision by the Municipal Services Committee. Following a hearing the Municipal Services Committee may affirm, reverse or modify the decision of the Department. The decision of the Municipal Services Committee is final.

4. Time Limit to Act And Written Denial. The City shall approve or deny a permit application no later than sixty (60) days after receipt of the application. If the City fails to act on the application within that sixty (60) day period, the application shall be deemed granted and the City shall issue the permit to Applicant. If the City denies a permit application, the City shall provide Applicant with a written explanation of the reason for the denial at the time the City denies the application. See Wis. Stat. § 182.017(9).

Q. Work Done Without a Permit.

1. Emergency Situations. In the event of an emergency, any person owning or controlling any sewer, water main, conduit or other 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. If the City becomes aware of an emergency regarding a registrant's facilities, the Department may attempt to contact the local representative of each registrant affected. The City may take whatever action it deems 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 register and apply for an excavation permit, and shall in addition to any penalties prescribed by ordinance, pay five times the normal fee established by the Common Council by Resolution for said permit, pay all other fees required by this chapter or other chapters of the City 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. If a subsequent permit is denied or is not approved, the registrant shall discontinue and abandon its facilities and the Department may cause any offending conditions to be removed or corrected and the expense thereof charged to the person responsible.

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

S. Location of Facilities.

1. Undergrounding. Unless in conflict with state or federal law, except when existing aboveground facilities are used, the installation of new facilities and replacement of old existing

facilities shall be done underground 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, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue consistent with the Department's assignment.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

3. Limitation of Space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the Department may prohibit or limit the placement of new, replacement 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 decisions, the Department/City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

T. 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 City use of the right-of-way, (ii) a public improvement undertaken by the City, (iii) an economic development project in which the City has an interest or investment, (iv) when the public health, safety and welfare require it, (v) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way, (vi) future development resulting in building(s) located within fall zones, (vii) when necessary to prevent interference with other existing communication service providers, or (viii) existence of stray voltage.

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.

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

shoring of the registrant's facilities. The registrant shall accomplish the needed work within 72 hours, unless the City agrees to a longer period. In the event that the registrant does not proceed to maintain, support, shore, or move its facilities, the City may arrange to do the work and bill the registrant for costs it incurs as well as damages of $100 per day beyond the registrant's 72 hour deadline to accomplish the needed work, said bill to be paid within thirty (30) days.

V. Indemnification. By registering with the City, or by accepting a permit under this chapter, a registrant or Permittee, as the case may be, agrees to indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents (collective, "Indemnified Parties"), 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 an Indemnified Party 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 City or its agents or employees except in such cases where caused by the sole negligence or willful misconduct of the City.

W. Abandoned Facilities.

1. Discontinued Operations. A registrant who discontinues its operations in the City 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 City. If a registrant proceeds under this clause, the City 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 aboveground; or

(3) require the registrant to post a bond or provide payment sufficient to reimburse the City 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 the right-of-way within two years, unless the Department waives this requirement.

2. Abandoned Facilities. Facilities of a registrant who fails to comply with **Section 5.04 W.1.**, 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 City may, at its option (i) abate the nuisance, (ii) take possession of the facilities, and/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 that is required to follow the provisions of Wis. Stat. § 196.81.

X. Reservation of Regulatory and Police Powers. The City, by 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 the lawful powers and rights, which it has now or maybe hereafter granted to the City 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 an 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 City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City 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 City pursuant to such powers.

Y. Obstructions and Encroachments.

1. Permission Required. No person, firm or corporation shall encroach upon, close, or encumber any public street, highway or part thereof, unless expressly authorized to do so by the Director of Public Works or designee. Application for said permission shall be made in writing to the Department of Public Works and the type plans, etc. of said obstruction, closure, or encroachment shall be submitted to the Director of the Department of Community Development and Inspections, and the Fire and Police Departments for review and recommendation. The purposes for such encroachment, closure, or encumbrance include, but are not limited to, placing of a refuse receptacle or dumpster, private construction equipment, or building materials on a City street or right of way, providing maintenance to a City street or right of way, facilitating the passage of a wide or hazardous transportation load, addressing an emergency, facilitating fire-fighting training exercises, allowing for passage of a police escorted motorcade, or allowing for a civic event to which the general public is encouraged to attend such as concerts, parades, festivals, athletic events, marches, ceremonies, tournaments, exhibitions, expositions, fairs, markets, or shows.

The Director of Public Works may also order the temporary closing of a City street or public thoroughfare in a residentially zoned district for the purpose of authorizing a street party to be held thereon, through the issuance of a "Street Party Permit". The request for such a permit must be in writing, signed by a majority of property owners fronting the street to be closed, filed at least ten (10) days in advance of the event desired to be held, accompanied by a fee to cover the cost of permit issuance and administration. The Common Council will, from time to time, by Resolution, establish the Permit Fee. Should any street party take place prior to the issuance of a permit, the fee shall increase to five (5) times the amount of the fee established by the Common Council by Resolution. There shall be a limit of two (2) permits per calendar year per street. The Department of Public Works shall inspect the street or public thoroughfare and obtain the recommendations of the Fire and Police Departments prior to permit issuance. The Department of Public Works shall provide barricades to close off the street which will be the subject of the street party. The Director of Public Works may decline to issue said permit for good cause, such as, but not limited to, his/her consideration that the street closing, if permitted, will, or will tend to cause unreasonable traffic congestion, result in a disturbance of the peace, or endanger the public health, safety and welfare. Should the permit be denied, the applicant may appeal the denial to the Committee on Public Works by filing a written notice of appeal with the Department of Public Works within five (5) business days following, but not including, the day of denial. The Director

of Public Works, upon issuing a permit, shall send a copy of same to the Fire and Police Departments, notifying the departments of a closed street. The permit shall state the time for which the permit is valid and the Police Department shall check the street during said permit hours to determine if the barricades have in fact been put in place. It shall be the responsibility of the applicant to put in place and maintain said barricades during the hours of the street closing specified on said permit. It shall be unlawful to hold a street party under circumstances where barricades do not completely block off vehicular traffic from the portion of the street being closed by authority of said permit. If the street is barricaded during hours which require vehicles to use their headlights, warning lights or reflectors must be clearly and visibly placed and maintained on said barricades by the permit applicant, and it shall be unlawful to neglect to have operating lights or reflectors on said barricades. Lights and reflectors shall be supplied by the Department of Public Works to the applicants upon request. It shall also be unlawful to place or maintain said barricades on a City street or public thoroughfare at any time or place not specified in said permit application. The applicant shall at all times be personally responsible for complying with this Ordinance and his/her duties are not delegable. It shall further be unlawful for any person to possess a City barricade or use the same for any purpose not authorized by the City.

Street Parties are defined as: A gathering of persons for a civil, charitable, community or neighborhood event held within a City street or other public thoroughfare which has been temporarily closed for the occasion. Street parties shall start no earlier than 10:00 A.M. Permits issued by the Director of Public Works shall state a starting time and termination time. Street parties shall terminate no later than 11:00 P.M., however, the Director of Public Works, upon the request of abutting property owners, may specify an earlier termination time. Prior to granting a permit, the Director of Public Works should confer with the Alderman of the District, if practicable. Amplified noise or music is prohibited unless specifically authorized. Amplified music is herein defined as music electrically or mechanically enhanced by an external source of power or amplifier and played or reproduced through a speaker or speaker system.

Street parties may be prematurely terminated by order of a police officer following an investigation which indicates that the street party has become loud, disorderly, is creating a public nuisance, disturbing the peace, endangering the public health, safety or welfare, or otherwise being contrary in its conduct to the terms of this Ordinance or other City or State ordinances, laws, rules or regulations, and it shall be unlawful for anyone to participate in a street party contrary to an above provided for order of a police officer or contrary to the terms of this Ordinance.

2. Areaways, Vaults, Etc. No areaway, vault, coal hole, basement steps, grating, rail, retaining wall, or other similar structure shall be constructed or maintained in any street without permit from the Director of Public Works, and approved by the Building Inspector. The Director of Public Works shall impose such conditions in the permit as to safeguard the public in the construction and maintenance of the encroachment. The fee for such permit shall be $15. If the construction becomes unsafe in the opinion of the Director of Public Works, he may order the same removed or repaired within 10 days. If the condition remains unremedied after that time, the City may do what is necessary and place the cost thereof on the tax roll against the owner of the abutting property.

3. No General Contractor shall allow or permit any vehicle to drop, deposit or track mud or dirt from a construction site onto the public street. At the close of each day when operations have ceased, at any construction site, the General Contractor shall be responsible for seeing that the public street is

cleaned immediately of all mud or dirt deposited on such street. If the Director of Public Works determines that the General Contractor has not properly cleaned a street for which General Contractor is responsible, the Director shall, without notice, cause such street to be cleaned and the cost thereof, as shown on an itemized bill, shall be collected from said responsible party.

Z. Miscellaneous.

1. Streets Closed to Travel, Protection of New Concrete.

a. Whenever any street or alley is impassable or unsafe for travel or during the construction or repair of any such street or alley and until it is ready for travel, the Department of Public Works may keep it closed by maintaining barriers at each end of the closed portion. The barriers shall be of such material and construction and placed in accordance with the manual as to indicate that the street or alley is closed and shall be lighted at night.

b. No person, without lawful authority, shall remove, take down, alter the position of, destroy, pass over or beyond any barrier so erected, or travel with any vehicle upon any portion of any street or alley closed by barriers as provided above. No person shall walk or travel in any manner upon the materials placed on any street or alley as part of the repair or construction work.

2. Deposit of Dirt onto Streets. No operator of any vehicle shall cause, allow or permit such vehicle to drop, deposit or track any mud or dirt from a construction site onto any street. The Department of Public Works shall give the contractor whose vehicle violates this prohibition twenty-four (24) hours to clean any such street. If the contractor fails to comply with the notice, the Department of Public Works shall clean any such street and report the itemized cost thereof to the City Attorney who shall take appropriate action to collect such cost. If the presence of such dirt or mud on any street constitutes in the judgment of the Director of Public Works an immediate traffic hazard he shall, without notice to the contractor, immediately clean such street and the cost therefor shall be collected as aforesaid. No person, firm or corporation, shall deposit rubbish or wastes in any highway.

3. Covers--Grates--Doors. No person, firm or corporation shall keep open and unattended or unguarded any opening in any street, sidewalk or alley. No person, firm or corporation shall remove or impair any covers, grates or doors in any street, sidewalk or alley.

4. Fences. No person, firm, or corporation shall construct or maintain any barbwire fence in any street or sidewalk area, or within two feet thereof.

5. Bills or Notices. Without the specific permission of the Common Council, no person, firm or corporation shall post bills or notices in any street right-of-way, or attach any object or thing whatsoever on utility poles.

6. Lighting and Paving of Alleys.

a. Lighting and paving of alleys shall, in all instances, be done at the sole discretion of the Common Council.

b. The cost of paving alleys shall be spread as a special assessment upon the abutting benefiting properties on the same basis as street paving. Said special assessment shall be reduced by twenty-five (25%) percent, which cost shall be assumed by the City.

c. Alley lighting costs shall be totally paid for by the City.

7. Partial Alley Vacations. Alleys shall be vacated in accordance with Section 66.1003, Wisconsin Statutes. A partial vacation of an alley will be approved by the Common Council subject to the following:

a. Criteria.
(1) The length of the alley remaining upon vacation of a portion of said alley shall not exceed one hundred (100') feet or abut more than four (4) properties.
(2) The partial alley vacation shall not result in discontinuance of sole access to a developed property.

b. Exceptions.
(1) A partial alley vacation of any length may be approved if the purpose is to reduce the length of an existing dead end alley.
(2) A partial alley vacation of any length may be approved if the result is an alley with two or more access points on a public street.

c. Administrative Review. Notwithstanding compliance with **Sections 5.04 Z.7.a. and b.,** a partial alley vacation shall be denied if in the opinion of the Chief of Police, Fire Chief, Director of Public Works or Director of Community Development and Inspections, the proposal will adversely impact the public health or safety of the immediate neighborhood.

AA. Severability. If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or constitutional 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.

Section Three: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk/Treasurer
DEBRA L. SALAS

APPROVED: _____Mayor Date: _____
JOHN M. ANTARAMIAN

Passed:

Published:

Drafted By:
MATTHEW A. KNIGHT
Deputy City Attorney

THE CITY OF KENOSHA
CHART A BETTER COURSE

CATHY AUSTIN, PE
Deputy Director of Public Works/City Engineer

Date: November 14, 2016

To: Alderperson Rocco LaMacchia, Chairman
Public Safety and Welfare Committee

CC: Alderperson Jesse Downing
District 16

From: Cathy Austin, P.E.
Deputy Director of Public Works / City Engineer

Subject: ***Aldermanic Request for a YIELD sign at the interesction of 56th Avenue and 50th Street (District 16) (Staff Recommends Approval of 90-Day Trial)***

BACKGROUND INFORMATION:

Alderperson Downing is requesting a YIELD sign at the intersection of 56th Avenue and 50th Street.

This intersection is a T-intersection of two commercial roads with no sight distance issues observed by Public Works Engineering Staff. The Manual on Uniform Traffic Control Devices states that YIELD signs should be used on low-volume roads where engineering judgment indicates that the normal right-of-way rule might not be readily apparent. There is no traffic control at this intersection currently, the proposed signage is shown on Attachment 2-1.

Alderperson Downing also indicated that there may be an issue with parked cars creating sight distance or hazards. Public Works Engineering Staff visited the sight multiple times and never encountered parking that would create a sight distance hazard. Staff will continue to monitor throughout the 90-Day Trial to determine if any parking restrictions are necessary.

RECOMMENDATION:

Public Works Engineering Staff recommends the installation of a southbound YIELD sign on 56th Avenue at its intersection with 50th Street. The signs would be installed for a 90-Day Trial.

THE CITY OF KENOSHA

Install Yield Sign: 56th Ave at 49th St

0 50 100 Feet

N W E S

10202016 JKD

THE CITY OF KENOSHA
CHART A BETTER COURSE

CATHY AUSTIN, PE
Deputy Director of Public Works/City Engineer

Date: November 14, 2016

To: Alderperson Rocco LaMacchia, Chairman
Public Safety and Welfare Committee

CC: Alderperson Scott N. Gordon
District 11

From: Cathy Austin, P.E.
Deputy Director of Public Works / City Engineer

Subject: ***Aldermanic Request for the analysis of parking restrictions on 55th Street for Curtis Strange Elementary (District 11) (Staff Recommends Approval of 90-Day Trial)***

BACKGROUND INFORMATION:

Alderperson Gordon and Public Works Engineering Staff received a request from Officer Walsh and Curtis Strange Elementary. Staff met with Officer Walsh and representatives from KUSD to help improve their pick-up and drop-off area and improve safety for the children at the crossings.

Public Works Engineering Staff recommends that the pick-up and drop-off area be designated more clearly and arrows be added to clear up any confusion by parents picking or dropping off their children. Staff also recommends "No Parking Standing or Stopping Any Time" signs be added near the cross walks to help ensure no cars park too close to the crosswalk which can affect sight distance and safety of the crossings. (See Attachment 4-1)

RECOMMENDATION:

Public Works Engineering Staff recommends the restriction of parking along both sides of 55th Street adjacent to Curtis Strange Elementary.

KENOSHA COUNTY INTERACTIVE MAPPING

Legend

- Street Centerlines
- Right-of-Ways
- Water Features
- Parcels
- Municipal Boundaries
- New Sign Placement
- Remove Old Sign

1 inch = 60 feet

DISCLAIMER This map is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, data and information located in various state, county and municipal offices and other sources affecting the area shown and is to be used for reference purposes only. Kenosha County is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact Kenosha County.

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