

CHAPTER V
PUBLIC WORKS AND SERVICES

5.01 PUBLIC WORKS GENERAL

A. Wisconsin Statutes. All Wisconsin Statutes as they now exist or as they may hereinafter be amended relative to public works and sanitary sewer and water service are incorporated herein by reference and made a part of this Chapter as if fully set forth herein.

B. State Administrative Code. All provisions of the State Administrative Code as they now exist or as they may hereinafter be amended relative to public works and sanitary sewer and water service are incorporated herein by reference and made a part of this Chapter as if fully set forth herein.

C. Work by City. The City, including its Water Utility, reserves the right to do any class of public work or part thereof through its own crews, without first taking bids therefor.

D. Public Right-of-Way Defined. "Public Right-of-Way" or "Right-of-Way", in this Chapter, shall mean and include highways, streets, alleys and any other publicly owned areas designated by any unit of government as a route for pedestrian or vehicular traffic.

5.02 UNDERGROUND UTILITIES IN
RECONSTRUCTED MAJOR STREETS

A. Definitions. The following terms, as used herein, shall have the meanings below provided:

1. Major Streets shall mean the greater, more important streets forming the radial, arterial and crosstown thoroughfares of the City of Kenosha.

2. Utilities shall mean electric, telephone and cable television lines and appurtenances.

B. Underground Utilities In Reconstructed Major Streets. When a Major Street is reconstructed or rebuilt requiring the existing utility poles to be relocated, consideration shall be given to place such utilities underground or relocated off site. The construction cost of moving the existing poles, borne by the Utility, shall be offset by the cost of placing the utility underground in determining the estimated project cost. The Committee on Public Works (Board of Public Works) shall perform a cost-benefit analysis before including the relocation work of such utilities in the project.

5.03 STORM SEWERS

A. Definitions. The following terms shall have the meaning below provided:

1. Storm Sewer. A pipe or conduit designed and used to transport runoff water from rain, snow or other unpolluted source.

2. Storm Water. Storm Water shall mean water from rain or snow as it accumulates and runs upon the surface of land whether or not developed.

3. Storm Water Collection Facilities. The storm sewers, structures, conduit, detention basins and equipment designed and used to collect and transport unpolluted water from the point of origin to Lake Michigan.

B. Prohibitions. No person, party, firm or corporation shall:

1. Discharge any wastewater, or prohibited wastewater, as those terms are defined in **Chapter XXXII, §32.08, Rule 08-01** of the Code of General Ordinances, into a storm sewer or storm water collection facilities.

2. Destroy, damage or interrupt the flow of any storm sewer or storm water collection facilities without a permit to do so from the Director of Public Works, or designee thereof.

3. Discharge storm water into any wastewater collection facilities, as that term is defined in **Chapter XXXII, §32.08, Rule 08-01** of the Code of General Ordinances.

4. Connect or cause to be connected a storm sewer to any sanitary sewer.

5. Loosen the ground or perform any work in the vicinity of a storm sewer or storm water collection facilities without first obtaining a permit to do so from the Director of Public Works.

5.035 SURFACE WATER DRAINAGE FLOW

A. Requirement. The owner of every parcel and lot shall maintain surface water drainage flow as provided in a drainage plan approved as part of any subdivision plat or plan, Conditional Use Permit or Building Permit.

B. Enforcement. The Director of Neighborhood Services and Inspections or Director of Engineering Division shall issue a written notice of violation to the owner or owner's agent of every parcel or lot whenever it comes to their attention that surface water is draining upon or from any such parcel or lot contrary to an approved drainage

plan. The order shall provide a reasonable time for compliance.

C. Appeal. Any order provided for in §B. may be appealed to the Board of Public Works (Committee on Public Works) within ten (10) days of date of said order by filing a notice of appeal with the Department of Neighborhood Services and Inspections. In the event of an unsuccessful appeal, the time for compliance with the order shall commence to run two (2) days following the mailing of the decision of the Board of Public Works (Committee on Public Works) to the owner or owner's agent. The Board of Public Works (Committee on Public Works) may affirm, reverse or modify the order appealed, or extend the time for compliance.

D. Violations. Each day of noncompliance with the order shall be deemed a violation of this Ordinance, commencing with the day following the last date provided for compliance. Every day of noncompliance shall be deemed a separate offense.

5.039 PUBLIC RIGHT-OF-WAY RESTORATION STANDARDS

A. Standards Established. The Common Council of the City of Kenosha shall, from time to time, by Resolution, establish standards for public right-of-way restoration to apply whenever any person, party, firm or corporation, whether public or private, opens any public right-of-way to perform any work therein. The standards shall address permanent and temporary work. The standards may include a notice procedure and provide time for voluntary compliance prior to the application of the penalty provisions of this Chapter.

B. Permit Condition. Any permit or authorization under this Chapter or any other Ordinance to open a public right-of-way shall include standards for restoration of the public right-of-way established under this Ordinance.

C. Non-Permit Work. Any person, party, firm or corporation who opens any public right-of-way without having a required permit, in addition to being subject to the forfeiture provisions of this Chapter, shall restore the public right-of-way in accordance with the standards for public right-of-way restoration established under this Ordinance.

D. Violation. It shall be a violation of this Ordinance for any person, party, firm or corporation to open a public right-of-way and fail to restore the public right-of-way in accordance with the standards for public right-of-way restoration established under

this Ordinance.

5.04 STREETS, ALLEYS, AND SIDEWALKS

A. Excavations.

1. Permit Required. No person shall make or cause to be made any excavation in, or raise or lower the surface of any street, highway or part thereof above or below the established grade, or interfere with the surface or soil of any street or part thereof in any manner whatever, within the City of Kenosha, without first obtaining a permit therefor.

2. Application and Permit. Application shall be made to and the Permit shall be issued by the Director of Public Works, upon such condition and agreement as he shall impose to insure that the work be done according to good engineering practice, that the public safety be procured, and the street be properly restored.

3. Fee. A fee for a Street Opening Permit 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. Should any work be commenced 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.

4. 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 an Indemnity 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.

5. Insurance. Permits shall be issued only to applicants who have obtained an insurance policy providing coverage of One Million (\$1,000,000) Dollars per person and per occurrence, with an insurance company licensed to do business in the State of Wisconsin covering death, personal injury and property damage, and filing proof thereof with the City Clerk.

6. Conditions of Issuance of Permit.

a. 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.

b. 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.

c. Contractor's 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.

d. 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 Public Works 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. Emergency Excavation Authorized. 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.

9. 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.

10. Exceptions.

a. City Work Excluded. The provisions of

this Ordinance shall not apply to excavation work under the direction of the Department of Public Works and Water Department 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.

b. Utilities. In lieu of the bonds and insurance requirements set forth in **§§5.04 A.4.** and **5.** and prior to the issuance of the required permit aforementioned, public utilities shall file with the City Clerk an agreement in writing to restore the public way in as good a condition as found, or pay the cost of such restoration to the City of Kenosha and shall further forever indemnify and save harmless the City of Kenosha from any and all liability and claims for damages arising out of or resulting from work and labor performed under the aforesaid permit. In lieu of the inspection requirements set forth in **§§5.04 A.6.** and **9.**, public utilities shall furnish the same degree of inspection as set forth in the aforementioned sections with their own personnel and shall file an agreement in writing to provide such inspection and shall further indemnify and save harmless the City of Kenosha from any and all liabilities and claims for damages arising out of or resulting from acts of such inspection.

B. Obstructions and Encroachments.

1. Permission Required. No person, firm or corporation shall encroach upon 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 or encroachment shall be submitted to the Director of Neighborhood Services and Inspections, and the Fire and Police Departments for review and recommendation.

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.

C. 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.

D. Partial Alley Vacations. Alleys shall be vacated in accordance with Section 66.296, Wisconsin Statutes. A partial vacation of an alley will be approved by the Common Council subject to the following:

1. Criteria.

a. 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.

b. The partial alley vacation shall not result in discontinuance of sole access to a developed property.

2. Exceptions.

a. A partial alley vacation of any length may be approved if the purpose is to reduce the length of an existing dead end alley.

b. 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.

3. Administrative Review. Notwithstanding compliance with **Section 5.04 D.1.** and **2.**, a partial alley vacation shall be denied if in the opinion of the Chief of Police, Fire Chief, Director of Public Works or City Planner, the proposal will adversely impact the public health or safety of the immediate neighborhood.

5.045 BANNERS, SIGNS, DECORATIONS AND OBSTRUCTIONS IN PUBLIC RIGHT-OF-WAY

A. Permit Required. No person, party, firm or corporation shall place any banner, sign, decoration, or obstruction in any public right-of-way without first obtaining the written permission of the Director of Public Works. The Common Council shall, from time to time, by Resolution, establish permit fees.

B. Exception and Limitation. The requirements of this Ordinance do not apply to:

1. The placement of banners, signs,

decorations or obstructions by the City in a right-of-way; and,

2. Outdoor dining areas permitted under **Section 5.046** of the Code of General Ordinances.

C. Requirements. A permit under **Subsection A.** may be granted only where:

1. A City authorized application form has been fully completed, properly executed and filed with the Office of the City Clerk. The City Clerk shall forward said application to the Director of Public Works, or designee thereof, for review and written comment prior to placing the application on the agenda of the Committee on Public Safety and Welfare for action thereon. The application form shall include an indemnity and hold harmless agreement drafted by the City Attorney which protects the City and its officers and employees from liability arising out of acts or omissions herein relevant, and it shall also require the following information: Name of applicant; address of applicant; identification of whether applicant is a partnership, individual, corporation, group of individuals, religious organization, political organization, social organization or fraternal organization; person representing applicant to contact; location, size, construction and height of banner, sign, decoration or obstruction; when banner, sign, decoration will be put up and taken down, if temporary in nature; whether or not lighted; and a picture, diagram or sketch of banner, sign, decoration, or obstruction.

2. The applicant has procured and maintains during the permit period, a minimum liability and contractual liability insurance policy in the amount of One Million (\$1,000,000.00) Dollars single limits, providing coverage for claims involving death, personal injury and property damage. A certificate of such insurance shall be filed with the City Clerk as part of the application. If a sign or decoration is painted upon the property of another which lawfully infringes on a public right-of-way, this requirement shall apply only to the painter during the period of painting. The City Attorney may recommend, and the Committee on Public Safety & Welfare may approve, higher limits of insurance protection on a case by case basis.

3. The written permission of the owner of private property which lawfully infringes on a public right-of-way, such as a railroad bridge, upon which the banner, sign, decoration or obstruction will be placed, has been procured and attached to the application. Banners, signs, decorations and obstructions may not be placed on private property which unlawfully infringes on a public right-of-way.

4. The persons executing the application are

authorized to do so by the corporation, partnership or organization in whose name the permission is requested and the application must document said authorization.

5. The placement, maintenance and removal of all banners, signs, decorations or obstructions shall be by applicant, solely at applicant's expense.

6. It shall be unlawful for any applicant obtaining a permit hereunder to fail to promptly remove a banner, sign, decoration or obstruction by the date specified within their application for taking it down, or by such other date as is determined by the Committee on Public Safety & Welfare.

D. Conditions of Approval. The Committee on Public Safety and Welfare may impose reasonable permit conditions.

The following guidelines shall be used to determine conditions of approval with respect to obstructions in any public right-of-way relative to outdoor displays or sales tables or racks where otherwise permitted:

1. Placement of obstructions shall be limited to areas where the sidewalk width is twelve (12') feet wide from face of curb to building line.

2. The obstruction shall be no closer than two (2') feet to the face of the curb.

3. The obstruction shall occupy no more than five (5') feet of the area between the curb and building line.

4. Portable obstructions shall be adequately secured and anchored so as to prevent them from tipping over from the wind. Table umbrellas shall be secured with a heavy ballast holder.

5. Obstructions greater than three and one-half (3.5') feet in height shall be at least fifteen (15') feet from a corner sidewalk.

6. Obstructions cannot extend beyond the limits of the applicant's property's street frontage.

7. Aisleways to building doors will be unobstructed so as to ensure a safe fire exit.

8. In accordance with **Chapter 32, Rule 06-25** of the Code of General Ordinances, no structure, tree, pole, post, sign or any other obstruction shall be placed, located or maintained within a five (5') foot radius of any fire hydrant connected to the Water Utility water supply system.

E. Prohibited Content. No banner, sign, decoration or obstruction may be obscene or may tend to discriminate against any person or group protected by law against discrimination.

F. Lighting. The lighting of banners, signs, decorations and obstructions shall be prohibited, unless specified in the application and approved by the Committee on Public Safety & Welfare. Such approval may be granted only if the lighting will not unreasonably interfere with traffic or the peaceful use of property owners and users within the immediate vicinity thereof.

G. Appeal. Should the Committee on Public Safety & Welfare deny the application, applicant, by filing a written notice of appeal with the City Clerk within five (5) business days following, but not including, the day of denial, may appeal said denial to the Common Council. The appeal will be heard at a scheduled Common Council meeting as soon as practicable. However, to be heard at a given Common Council meeting, the notice of appeal must be filed a minimum of two (2) business days prior to said meeting, not including the day of the scheduled meeting.

H. Revocation, Suspension and Removal. The Committee on Public Safety & Welfare may suspend or revoke any permit issued hereunder and order the removal of any banner, sign, decoration or obstruction placed in a City right-of-way contrary to the terms of a permit issued under this Ordinance, or contrary to this Ordinance, upon providing permit holder with a reasonable time, not to exceed ten (10) days, in which to file a written request with the City Clerk to be heard in said matter, and show cause why the proposed action should not be taken. However, a banner, sign, decoration or obstruction may be removed without prior notice or opportunity to be heard where it constitutes an immediate danger to the public health, safety or welfare, where it is not in conformance with representations made in the application, where the Certificate of Insurance has expired or where placed within any right-of-way without a permit, contrary to the provisions of this Ordinance. In such cases, an opportunity for a post-removal hearing shall be provided.

I. Other Codes, Permits and Inspections. Permits issued hereunder are conditioned upon compliance with any Building, Health, Fire or Zoning Codes and permits and inspections hereunder, which may be applicable.

J. Penalty. Any person, party, firm or corporation who violates any provision of this Ordinance shall, upon conviction, forfeit not more

than Three Hundred (\$300.00) Dollars, plus the cost of prosecution, and in the event of the failure to promptly pay said amounts, the violator shall be imprisoned for not more than ten (10) days in the County Jail. Each day of violation shall be deemed a separate offense.

5.046 OUTDOOR DINING AREA LOCATED IN A PUBLIC RIGHT-OF-WAY, MAJOR STREET SETBACK AREA OR ON PUBLIC PROPERTY.

A. Definitions. The following terms and phrases, for purposes of this Ordinance, shall have the meanings provided.

1. "Alcohol Beverages" shall mean intoxicating liquor, wine and/or fermented malt beverages.

2. "Applicant" shall mean a tenant or property owner who is applying for a new or renewal permit to operate an Outdoor Dining Area in a public right-of-way, in a major street setback area, or on public property.

3. "Dining Appurtenance(s)" shall mean tables, chairs, planters, barriers, railings, walls, signs, benches, waste receptacles, umbrellas and heaters.

4. "Major Street Setback Area" shall mean the area between the property line and major "Street Setback" line as defined in Section 12.0 and established in Section 5.0 of the Zoning Ordinance for the City of Kenosha, Wisconsin.

5. "Outdoor Dining" shall mean the consumption of food and/or beverages in an Outdoor Dining Area.

6. "Outdoor Dining Area" shall mean a designated area where Dining Appurtenances are located on a sidewalk within a public right-of-way, partially within the public right-of-way and partially upon private property, within the Major Street Setback Area, and/or upon public property, and operated as an integral part of an adjacent business, such as a bakery, candy and ice cream store, coffee shop, food store, grocery, delicatessen or restaurant, for the purpose of Outdoor Dining.

7. "Pedestrian Path" shall mean a continuous, obstruction-free sidewalk area, between the outside boundary of the Outdoor Dining Area and any obstruction. Obstructions include, but are not limited to, street trees, landscaping, street lights, benches, fire hydrants, utility boxes, utility poles, bus stops, public art and waste receptacles.

8. "Permanent Improvements" shall mean privately owned improvements and/or personal property attached to the ground by cement footings, bolts or similar attachment device.

9. "Public Property" shall mean a parcel of property owned, leased or otherwise controlled by the City of Kenosha, or subunit thereof, excluding the publicly held rights-of-way.

10. "Restaurant" shall mean any building or room where, as the establishment's primary business, food and/or beverages are prepared, or served or sold to transients or the general public, and where the sale of Alcohol Beverages account for less than fifty (50%) percent of the establishment's gross receipts in the B-1, B-2, B-3 or B-4 Zoning Districts.

B. Permit Required. No person, party, firm or corporation shall be permitted to use the public right-of-way, a Major Street Setback Area or Public Property for an Outdoor Dining Area without first obtaining a permit from the Committee on Licenses/Permits. Any expansion or change in ownership of the business adjacent to the Outdoor Dining Area shall require a new application, fee, review and approval.

C. Application. A City authorized application form shall be fully completed, properly executed and filed with the City Clerk/Treasurer. An Outdoor Extension of Retail "Class B", Class "B" and/or Class "C" License and/or an Encroachment Agreement shall require separate application and approval by the Common Council.

1. The application form shall include:
 - a. Name, address and phone number of Applicant(s).
 - b. Name, address and phone number of adjacent business under **Section 2.a.**
 - c. Whether the Outdoor Dining Area is the subject of Permanent Improvements.
 - d. Nature of business.
 - e. Maximum number of tables and chairs.
 - f. Zoning District.
 - g. Indemnity and Hold Harmless Agreement indicating the Applicant(s), in consideration of having received an Outdoor Dining Area Permit, agrees to indemnify and hold harmless the City of Kenosha, Wisconsin, and its officers, employees and agents against any and all losses, claims, damages, costs, expenses, judgments, awards, attorney fees, or settlements which they may incur as a result of the use of the public right-of-way, a Major Street Setback Area or Public Property for an Outdoor Dining Area.

2. Additionally, the following items shall also be required to be submitted with the application:

a. Where an Outdoor Dining Area extends beyond the frontage of the Applicant's business, a written statement signed by the owner(s) and the tenant(s) of an adjacent business fronting the street approving the placement of the Outdoor Dining Area in front of their business.

b. An Operational Plan, including: hours, days and months of operation; planned capacity of Outdoor Dining Area; indication if Alcohol Beverages will be served in Outdoor Dining Area; and, a lighting and signage plan.

c. A scaled Site Plan indicating: the location and boundary of the proposed Outdoor Dining Area; the dimension of the remaining width of the sidewalk outside the Outdoor Dining Area; the dimension from the Outdoor Dining Area to the curb or property line and all buildings; and, the location of awnings, and Dining Appurtenances within the Outdoor Dining Area. The plans shall also indicate: existing property lines; associated building(s) and entrance(s); adjacent building(s) and entrance(s); extent of sidewalk adjacent to business(es), face of curb, location of fire hydrants, bus shelters and/or stops, trees, planters, utility poles, signs, benches, light poles, waste receptacles, driveways, alleys, vaults and any other obstructions within the public right-of-way at proposed location of Outdoor Dining Area and for an additional twenty (20') feet extending therefrom.

d. Photograph(s), a minimum of four (4") by six (6") inches, showing the entire sidewalk, Major Street Setback Area, and/or Public Property with building facade proposed for the Outdoor Dining Area.

e. Certificate of Liability Insurance, with Contractual Liability Endorsement, showing insurance in force and effect in the minimum amount of One Million (\$1,000,000.00) Dollar single limits, providing coverage for claims involving death, personal injury and property damage. The City of Kenosha shall be a named additional insured under the terms of this policy.

f. An affidavit verifying the percentage of gross receipts from the sale of Alcohol Beverages during the past City license year (July 1 to June 30), where applicable. The affidavit shall be verified under oath in a statement provided by an accountant or bookkeeper.

g. Where permanent improvements are proposed, their specifications shall be attached.

D. Review and Approval. The City Clerk/Treasurer shall send the application to the Department of City Development, who shall forward a copy of the application to appropriate departments for review and written comment. Following the review period, the Department of City

Development shall send a copy of the application and comments from City departments to the City Clerk/Treasurer to be forwarded to the Committee on Licenses/Permits. The permit may be subject to reasonable terms and conditions.

Upon initial application and renewal of an Outdoor Dining Area Permit, an Applicant that proposes to serve Alcohol Beverages shall not have their application approved when the Applicant's business has accumulated fifty (50) or more demerit points under **Section 10.063 D.** of the Code of General Ordinances.

E. Fee. The fee for an Outdoor Dining Area Permit shall be paid to the City Clerk/Treasurer at the time of application submission. There shall be an initial review fee of Fifty (\$50.00) Dollars. In addition, there shall be an annual permit fee of Fifty (\$50.00) Dollars for the permit term. There shall be an initial review fee for an Outdoor Extension of a "Class B", Class "B" or "Class C" License of Fifty (\$50.00) Dollars. Payment of the one time processing fee for such Outdoor Extension under **Section 10.075 G.** of the Code of General Ordinances shall satisfy this requirement. In addition, there shall be an annual permit fee of One Hundred (\$100.00) Dollars for the permit term. Requests for renewals shall be made before the expiration of the existing permit. Expired Outdoor Dining Area Permits are not subject to renewal.

F. Term. The permit term shall be from January 1 through December 31.

G. Transfer/Assignment. Permits shall not be transferrable or assignable.

H. Renewal Application. The Applicant shall, on an annual basis, file a City authorized renewal application with the City Clerk/Treasurer prior to the term expiration. The following items shall be filed with the renewal form:

1. The annual renewal fee.
2. A valid Certificate of Liability Insurance.
3. An affidavit verifying percentage of gross receipts from Alcohol Beverage sales during the past City license year (July 1 to June 30). The affidavit shall be verified under oath in a statement provided by an accountant or bookkeeper.

Permits recommended for renewal shall be renewed by the City Clerk/Treasurer, upon satisfactory submittal of all required items.

I. Renewal, Nonrenewal, Revocation or Suspension. The City Clerk/Treasurer shall, on an annual basis, notify the Department of Neighborhood Services and Inspections by

November 1 and supply a list of current Outdoor Dining Area Permits. The Department of Neighborhood Services and Inspections shall, within ten (10) business days, provide written comments on the type and number of violations issued to the permit holder through written orders during the previous year, if any, and a recommendation if the permit should be renewed.

The City Clerk/Treasurer shall verify the number of demerit points the Applicant's business has accumulated under **Section 10.063 D.** of the Code of General Ordinances at the time of renewal, if applicable. Businesses that have accumulated fifty (50) or more demerit points at the time of renewal shall be subject to suspension or revocation of an Outdoor Dining Area Permit. Recommendation for nonrenewal, revocation or suspension shall be forwarded to the Committee on Licenses/Permits for action, at any time, following a hearing. The determination of the Committee may be appealed to the Common Council by filing a notice of appeal with the City Clerk/Treasurer within ten (10) days of the date of the hearing determination.

J. Conditions of Issuance of Permit.

1. Design Regulations.

a. A clear, continuous Pedestrian Path, parallel to the curb or adjacent property line, and not less than four (4') feet in width, shall be required for pedestrian circulation outside of the Outdoor Dining Area, except where a reduction is permitted under **Section P.** In areas of heavy pedestrian traffic, a width greater than four (4') feet may be required. The Pedestrian Path may not be required for Public Property.

b. All Dining Appurtenances located in an Outdoor Dining Area shall not be permanently attached to any sidewalk, curb, building, tree, post, public bench, waste receptacle or any other fixture within the public right-of-way. Dining Appurtenances may be permanently attached when approved as a Permanent Improvement in the Outdoor Dining Area.

c. Fixed or retractable awnings in compliance with **Section 15.06 F.** of the Zoning Ordinance are permitted over Outdoor Dining Areas.

d. One (1) portable menu board sign is permitted within the Outdoor Dining Area, as permitted under **Section 15.10** of the Code of General Ordinances. Signs shall be no larger than four (4) square feet in area. All proposed signs shall be shown in the application and shall be removed from the public right-of-way at the close of business each night.

e. A barrier may be permitted to enclose Outdoor Dining Areas, provided it shall not be less

than thirty (30") inches and not more than forty-two (42") inches high. Barriers may be constructed of wrought iron, wood, pvc or metal railings, fences, planters, stanchions or similar products. In no case shall barriers or their support legs be located within the Pedestrian Path.

2. Location Regulations.

a. Locations of Outdoor Dining Areas shall be limited to areas where the sidewalk pavement width within the public right-of-way is at least ten (10') feet from the face of the curb to the building or property line, except where a reduction is permitted under **Section P.** A sidewalk partially located within the Major Street Setback Area or upon private property adjacent to the public right-of-way, may be counted toward the minimum ten (10') foot sidewalk width provided the required Pedestrian Path shall be entirely located within the public right-of-way.

b. An Outdoor Dining Area may be located directly adjacent to and abutting the associated food serving establishment, and/or located where it abuts the curb and is at least two (2') feet from the face of the curb. Outdoor Dining Areas located adjacent to an approved loading zone shall not be required to be located two (2') feet from the face of the curb. In no case shall the Pedestrian Path be reduced to less than a minimum width of four (4') feet, except where a reduction is permitted under **Section P.**

c. The Outdoor Dining Area may not include within its boundaries bus stops, fire hydrants or other facilities deemed necessary for public safety.

d. An Outdoor Dining Area shall be located at least five (5') feet from fire hydrants, driveways, alleys, bus shelters and/or stops. In no case shall Dining Appurtenances greater than three (3') feet in height be located within the fifteen (15') foot vision clearance triangle required under Section 2.06 of the Zoning Ordinance for the City of Kenosha, Wisconsin.

3. Operational Regulations.

a. All persons occupying the Outdoor Dining Area shall be required to be seated when consuming food and beverages.

b. An Outdoor Dining Area shall be an accessory use located adjacent to a bakery, candy and ice cream store, coffee shop, food store, grocery, delicatessen or restaurant, and may extend in front of of an adjacent business as permitted under **Section C.2.a.**

c. All Dining Appurtenances shall be movable, unless approved as a Permanent Improvement, and arranged to adequately accommodate persons with disabilities. Dining Appurtenances shall not impede building ingress and egress or encroach into the Pedestrian Path at any time. A clear area shall be

maintained from all building entrances located adjacent to an Outdoor Dining Area to the Pedestrian Path. The clear area shall have a minimum width of three (3') feet or a width equal to the width of the entrance, whichever is greater. Dining Appurtenances shall be permitted to remain within the Outdoor Dining Area at the close of business each day, unless determined to be a public safety hazard.

d. Umbrellas shall have a vertical clearance of at least seven (7') feet, and be adequately secured and anchored with a heavy ballast holder to prevent displacement by the wind.

e. Amplified music and sound, and non-amplified music is prohibited.

f. Outdoor Dining Areas shall provide adequate lighting in and around the designated area(s) at all times. Lighting fixtures shall be limited to fixtures attached to the building facade or upon private property. Battery operated lamps or candles placed on tables are permitted. Lighting shall not be a public or private nuisance.

g. Portable propane heaters are permitted within the Outdoor Dining Area provided they are a minimum of eighty (80") inches in height and located at least five (5') feet from a building.

h. Electrical and propane infrared heaters, or similar heating devices approved for outdoor use, are permitted to be attached to building facades and shall be installed according to the manufacturer's specifications and appropriate Building, Electrical and Mechanical Codes.

i. Outdoor Dining Areas that propose to serve Alcohol Beverages shall require Common Council approval of an outdoor extension of the License, prior to issuance of a permit for an Outdoor Dining Area.

j. All food and drink preparation shall be performed in the affiliated business. No food or drink preparation or storage shall be permitted within the Outdoor Dining Area.

k. Outdoor Dining Areas permitted to sell/serve Alcohol Beverages under **Section 10.075** of the Code of General Ordinances, shall limit the hours of the sale/service of Alcohol Beverages to the hours permitted in said Ordinance.

l. Operating hours for Outdoor Dining Areas shall be consistent with the operating hours of the associated business, unless the affiliated business is located adjacent to a residential zoning district, in which case Outdoor Dining Areas shall not be operated between the hours of 10 P.M. and 7 A.M.

m. Outdoor Dining in Outdoor Dining Areas shall be limited to the designated area(s) identified on the approved application.

n. The sidewalk area within and immediately surrounding the designated Outdoor Dining Area shall be maintained in a clean, sanitary, neat and orderly appearance at all times. Litter shall be

removed by the permit holder on a periodic basis during the day and at the close of business each day.

o. Outdoor Dining Areas and Dining Appurtenances shall be permitted to occupy sidewalks within the public right-of-way throughout the year; provided, however, snow and ice removal shall be the obligation and at the expense of the permit holder.

p. The approval of an Outdoor Dining Area shall not be construed or deemed to create a vested interest in the public right-of-way, a Major Street Setback Area or on Public Property. The permit holder shall remove or modify an Outdoor Dining Area at their own expense whenever the City determines it necessary or desirable to modify the width of the street and/or public sidewalk, or to vacate Public Property..

K. Permanent Improvements In An Outdoor Dining Areas. Permanent improvements in an Outdoor Dining Area shall, in addition to the Outdoor Dining Area Permit, require a Street Encroachment Agreement signed by the abutting property owner. The property owner, upon abandonment or termination of use, shall restore the Outdoor Dining Area to the same condition as existed prior to its use as an Outdoor Dining Area. Additionally, at such time the City may deem it necessary or desirable to modify the width of the street and/or the public sidewalk, the abutting property owner shall remove all Permanent Improvements from the public right-of-way or Major Street Setback Area at the property owner's expense. Existing permanent Outdoor Dining Areas, previously approved through a Street Encroachment Agreement, shall not require a new Street Encroachment Agreement.

L. Alcohol Beverages in Outdoor Dining Area. Applicants who propose to sell/serve Alcohol Beverages in an Outdoor Dining Area must also complete an application for an "Outdoor Extension of Retail "Class B", Class "B", or "Class C" License as regulated by **Section 10.075** of the Code of General Ordinances. Said application may be filed concurrently with the Outdoor Dining Area Permit. Approval of an Outdoor Dining Area Permit involving the sale/serving of Alcohol Beverages by the Committee on Licenses/Permits shall be conditioned upon approval of the Outdoor Extension License by the Common Council.

M. Appeal. Should the Committee on Licenses/Permits deny the application for an Outdoor Dining Area, the Applicant, by filing a written Notice of Appeal with the City Clerk/Treasurer within five (5) business days

following, but not including, the day of denial, may appeal said denial to the Common Council. The appeal will be heard at a scheduled Common Council meeting as soon as practicable. However, to be heard at a given Common Council meeting, the Notice of Appeal must be filed a minimum of two (2) City business days prior to said meeting, not including the day of the scheduled meeting.

N. Suspension or Revocation of Permit and Removal of Outdoor Dining Area and Dining Appurtenances. The Committee on Licenses/Permits may suspend or revoke any permit issued hereunder and order the removal of an Outdoor Dining Area and Dining Accessory which is operated contrary to the terms of a permit issued under this Ordinance, upon providing permit holder with a reasonable time, not to exceed ten (10) days, in which to file a written request with the City Clerk/Treasurer to be heard in said matter, and show cause why the proposed action should not be taken. However, an Outdoor Dining Area and all Dining Appurtenances may be removed without prior notice or opportunity to be heard where it constitutes an immediate danger to the public health, safety or welfare, where it is not in conformance with representations made in the application, where the Certificate of Insurance was not provided or has expired, or where placed within any public right-of-way without a permit, contrary to the provisions of this Ordinance. In such cases, an opportunity for a post-removal hearing shall be provided following the foregoing provisions for an appeal.

O. Enforcement. The enforcement of this Ordinance shall be under the jurisdiction of the Department of Neighborhood Services and Inspections and Kenosha Police Department, who shall have the power to inspect Outdoor Dining Areas to determine compliance with this Ordinance. The Department of Neighborhood Services and Inspections shall be primarily responsible for enforcement during regular City Hall working hours. The Kenosha Police Department shall be primarily responsible for enforcement of this Ordinance during all other hours. Violations that are enforced by the Police Department shall be communicated to the Department of Neighborhood Services and Inspections.

Compliance with this Ordinance shall be obtained through written orders to the applicant, issued by the Department of Neighborhood Services and Inspections. Except in emergency situations, a minimum of ten (10) days shall be provided for compliance. Orders which are not timely complied with shall be subject to a suspension or revocation of an Outdoor Dining

Area Permit and/or a financial penalty, as specified in this Ordinance.

P. Special Exceptions. With respect to the following items, the Department of City Development shall have the discretion to recommend approval of alternative standards to the Committee on Licenses/Permits. The exceptions shall not present any hazard or danger to the public safety, health or welfare, and shall also meet the standards listed under each item.

1. Pedestrian Paths. The Pedestrian Path, as referenced in **Section J.1.a.**, may be reduced in width, provided the reduction meets the following standards:

- a. The Pedestrian Path shall not be reduced to less than three (3') feet in width.
- b. The location of the Outdoor Dining Area is not located adjacent to a major street.
- c. Pedestrian traffic is minimal in the location of the proposed Outdoor Dining Area.
- d. The Outdoor Dining Area is enclosed by a barrier, as specified in **Section J.1.e.**, to separate the dining area from the required Pedestrian Path.

2. Sidewalk Width Requirement. The required sidewalk width, as referenced in **Section J.2.a.**, may be reduced to less than ten (10') feet, provided the reduction meets the following standards:

- a. The sidewalk shall not be reduced to less than eight (8') feet in width.
- b. The location of the Outdoor Dining Area is not located adjacent to a major street.
- c. The strict application of the required sidewalk width would result in denial of the application.

3. Paving of Lawn Park Areas. Paving of the lawn park area may be permitted when it meets the following standards:

- a. The paving has been approved by the Committee on Public Works.
- b. The paved lawn park area is conditioned upon removal and restoration of the lawn park area to prior conditions upon discontinuance of the Outdoor Dining Area.

Q. Other Codes. Permits issued hereunder are conditioned upon compliance with the Building, Health, Fire and Zoning Codes, and inspections, licenses, approvals and permits thereunder, which may be applicable.

R. Penalty. Any person, party, firm or corporation who violates any provision of this Ordinance shall, upon conviction, forfeit not more than Five Hundred (\$500.00) Dollars, plus the cost

of prosecution. Each day of violation shall be deemed a separate offense.

5.05 CONSTRUCTION OF SIDEWALKS AND DRIVEWAY APPROACHES

A. Specifications, Materials, Dimensions.
(See §66.615 Wisconsin Statutes.)

1. Materials and construction methods used shall be as per specifications on file at the office of the Director of Public Works. Provisions of this Chapter will be enforced by the Director of Public Works.

2. Variances in line and grade due to trees and other obstructions, shall be approved by the Board of Public Works.

B. License and Permit.

1. **License Required.** No person, party, firm or corporation shall construct, modify, destroy, remove or repair any sidewalk or driveway approach in a public right-of-way without first obtaining a license to do so from the Director of Public Works.

There shall be a fee for such license for the first year and an annual renewal fee thereafter. The Common Council will, from time to time, by Resolution, establish the Permit Fee. All fees shall be paid to the City Clerk and all licenses shall expire on the April 30th following the issuance thereof, unless renewed. Should any work be commenced 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.

An owner of property improved by a one-family home who resides therein or intends to reside therein in the future for a period of not less than one year may, in his/her own person, construct, modify, destroy, remove or repair a sidewalk or driveway approach in the public right-of-way abutting their property without such license but shall, nevertheless, be required to furnish an "owners' bond" as provided in 2. below and obtain a permit as provided in 4. and/or 5. below.

2. **Bonds Required. Contractor's Bond.** Every person, party, firm or corporation engaged in the business of constructing, modifying, destroying, removing or repairing sidewalks or driveway approaches, before the issuance of the above license, shall give a surety bond to the City of Kenosha in the penal sum of Ten Thousand (\$10,000) Dollars, which bond shall guarantee that

all work is performed in accordance with this and other Ordinances of the City of Kenosha and laws, rules and regulations of the State of Wisconsin and which will indemnify the City for any damage to or obstruction of its public right-of-way, including its sanitary and storm sewers and water mains.

Owner's Bond. Any person constructing, modifying, destroying, removing or repairing a sidewalk or driveway approach abutting their one-family home shall furnish a surety bond similar to the above, except that the bond shall be only in the penal sum of Two Thousand (\$2,000) Dollars. No bond is required when sidewalk work involves less than one hundred (100) square feet of area and when driveway approach work involves less than twenty (20) square feet of area.

3. **Insurance.** A condition of such license shall be the furnishing of a Certificate of Insurance, containing a provision that the Director of Public Works must be notified twenty (20) days in advance of the effective date of any termination or cancellation thereof, which Certificate shall indicate that there is, in full force and effect, a policy of public liability insurance and motor vehicle liability insurance for each motor vehicle used in conjunction with the licensed activity, issued by an insurance company licensed to do business in the State of Wisconsin, in the amount of Three Hundred Thousand (\$300,000) Dollars protecting against claims involving death, personal injury or property damage.

4. **Permit Required. Sidewalk.** No person, party, firm or corporation may construct, modify, destroy, remove or repair a particular sidewalk within the City, even though licensed to do so, without first receiving a Sidewalk Permit. A Sidewalk Permit shall be issued by the Director of Public Works to anyone having a license, bond and insurance as herein required for a new sidewalk, sidewalk repair or mudjacking, parkway walk and/or walk grade for building construction. The Common Council will, from time to time, by Resolution, establish the Permit Fees. Should any sidewalk work be commenced prior to the issuance of a permit, the fees shall increase to five (5) times the amount of the fee established by the Common Council by Resolution.

5. **Permit Required. Driveway Approach.** A permit to construct, modify, destroy or remove a driveway approach is also required pursuant to **§5.085** of the Code of General Ordinances.

6. **Revocation of License.** The Director of Public Works, following notice and an opportunity to be heard, may suspend or revoke any license or

permit of any holder thereof who violates this or any other relevant City Ordinance or State law, rule, regulation or any order of the Director of Public Works.

C. Public Sidewalks Required.

1. Definition.

a. "Building" shall include any structure occupied or used for dwelling, industrial or commercial related purposes.

b. "Rural Type Section" shall mean a roadway with pavement and roadside ditch.

2. Every owner of property which is presently improved by a building shall construct public sidewalks at their own expense in the public right-of-way abutting said property. Such sidewalks shall meet the requirements of **§5.05 A.** above on petition of the property owner in cases where the public safety and welfare does not require strict compliance therewith. The Common Council, in its discretion, may modify the sidewalk construction specifications contained in **§5.05 A.** on petition of the property owner in cases where the public safety and welfare does not require strict compliance therewith. Any petition for modification granted by the Council pursuant to this Section shall, in no way, prohibit corrective orders relative to the width, placement and construction specifications of said sidewalk where the public safety and welfare shall require it.

3. Every property owner who shall hereafter improve their property with a building shall construct public sidewalks in the public right-of-way abutting said property immediately after the completion of construction of such building. Such sidewalks shall meet the requirements of **§5.05 A.** above. A Certificate of Occupancy shall not be granted to the owner or proposed occupier of a building within the City, and for which a Certificate of Occupancy was applied, unless a sidewalk shall have been installed or unless an agreement guaranteeing performance as evidenced by a performance bond, irrevocable letter of credit or escrow of money shall have been furnished to the City, and approved as to form by the City Attorney. Said guaranty agreement shall provide for the earliest feasible installation of a sidewalk with due consideration to seasonal weather conditions and to the general development of the area in, about and abutting the building for which a certificate of occupancy has been applied, as determined by the Director of Public Works or designee thereof.

4. In a rural type section every property owner who shall hereafter improve their property with a building shall be required to construct public

sidewalks when the roadway is improved to an urban type section. In such event, the sidewalk shall be constructed at the time of installation of the new pavement, curb and gutter.

5. The Common Council may, in its discretion, at any time, order the construction of, repair of, or replacement of public sidewalks at the expense of the abutting property owner whether the property is improved by a building or not, when deemed necessary to serve the public safety or convenience.

6. Special assessments may be utilized to recover the cost of sidewalk construction, repair or replacement subject to the following procedure:

a. Written notice of the proposed construction, repair or replacement of a public sidewalk has been sent by 1st Class United States mail to the last recorded address of the abutting property owner or has been served upon the person of the abutting property owner.

b. The abutting property owner has been permitted the opportunity to be heard before the Board of Public Works on the necessity for the proposed construction, repair or replacement. The abutting property owner shall be given the opportunity to appear, with or without counsel, examine all written reports, call witnesses and submit written reports. The findings of the Board of Public Works shall be reduced to writing and submitted to the Common Council for approval.

c. The Common Council must approve the necessity for the proposed construction, repair or replacement of public sidewalks by Resolution after giving the abutting property owner and the public the opportunity to be heard, and after reviewing the report of the Board of Public Works.

d. The Common Council must approve, by Resolution, the amount of special assessment to be imposed upon the benefited property after the final determination of charges has been made. Appeal from this final determination shall be pursuant to the procedures outlined in §66.60 (12), Wisconsin Statutes.

7. Sidewalks shall not be required:

a. Within the City of Kenosha Industrial Park.

b. Within Industrial Parks of over twenty (20) acres upon application for an exception to the Common Council and approval thereof, when and for so long as not deemed necessary.

c. Within the Planned Development Overlay-PDO-District, as defined in §3.22 of the City of Kenosha Zoning Ordinance, upon application for an exception to the Common Council and approval thereof.

d. In the public right-of-way of property owned by the City of Kenosha. Exceptions in **Subsections**

b. and c. may be granted for all or part of the area sought to be excepted. Exceptions may be denied where a public sidewalk is deemed necessary to serve the public safety and convenience.

8. Sidewalk Requirement-Deferral. No property owner shall have the sidewalk requirement of this Ordinance deferred unless it is recommended by the Board of Public Works and approved by the Common Council, and then only pursuant to the following criteria:

a. On boundary streets with an adjoining town or village, where the City limits are so irregular as to make it impractical to require the property owner within the City to have sidewalks constructed until the property abutting and remaining in the town or village shall have sidewalks constructed thereon.

b. On property zoned "Business (B-2)" which abuts a major State trunk highway.

5.051 LAWN PARK AREAS

A. Definitions

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

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

3. **Improve** shall mean to plant with grass suitable for local growing conditions; to plant with trees subject to species and spacing recommended by the City Forester; or to plant with other plantings which are approved by the City Forester as to suitability, species and spacing. In approving other plantings, the City Forester shall consider vision clearance, maintenance and compatibility with the site and the neighborhood.

4. **Maintain** shall mean:

a. free from debris.

b. decorative stone, bark or mulch to be contained so as not to scatter on sidewalk or street.

c. grass, trees and plantings to be in a healthy condition and trimmed so as not to constitute a public or private nuisance.

d. grass not to exceed eight (8") inches in height.

e. area to be made as safe as its nature will reasonably permit.

f. area to be kept in compliance with the Ordinances which regulate exterior maintenance of abutting premises.

B. Purpose. The purpose of this Ordinance is to encourage a natural and aesthetically pleasing environment.

C. Required Improvements. It shall be the duty of every property owner to improve the lawn park area abutting their property in conformance with this Ordinance.

D. Exception. The Committee on Public Works may grant an exception, upon the petition of the abutting property owner, to the required improvements so as to permit the paving or other treatment of a lawn park area. In considering an application from an abutting property owner for an exception the Committee on Public Works shall consider issues relating to lawn park maintenance and street access to premises. The application may be granted in full or in part and may be conditioned upon trees or other plantings being installed in accordance with a plan approved by the City Forester. Petitions for exceptions are to be granted only for a good cause.

E. Required Maintenance. It shall be the duty of every property owner to maintain the lawn park area abutting their property in conformance with this Ordinance. The City's obligation to maintain is limited to enforcement of this Ordinance upon having notice of a violation.

F. Enforcement. The enforcement of this Ordinance shall be under the jurisdiction of the Department of Public Works. With respect to exterior maintenance, the Department having jurisdiction of any exterior maintenance Ordinance applicable to the abutting property shall also have jurisdiction with respect to lawn parks.

Compliance with this Ordinance shall be obtained through written Orders to the abutting property owner, issued by designated enforcing officers of each Department having jurisdiction hereof, which shall provide a reasonable time for compliance. Except in emergency situations a minimum period of ten (10) days shall be provided for compliance. Orders which are not timely complied with may be enforced by citation or by the City doing or having done any corrective work and charging the cost thereof to the abutting property as a special assessment. The penalties for non-compliance shall be noted in any Order issued.

Any property owner in receipt of an enforcement order may appeal said order to the Committee on Public Works within five (5) days of the receipt thereof, by filing same in the office of the Department of Public Works.

5.06 WASTE COLLECTION AND REMOVAL

A. Definitions.

1. **Household Hazardous Waste** shall mean

and include:

a. Paint Products - lead, latex and oil paints, thinners, strippers, solvents, varnishes, and lacquers.

b. Auto Products - gasoline, used antifreeze, car waxes, brake and transmission fluid.

c. Cleaning Products - oven cleaners, drain cleaners, bleach, spot removers, detergents, window and floor cleaners and polishes, metal polishers.

d. Garden Products - pesticides, weed killers, fertilizers, ant and rodent poisons, flea powder and fungicides.

e. Miscellaneous Items - photographic chemicals, lighter fluids, mercury batteries, moth balls, swimming pool chemicals and wood preservatives.

2. Waste shall mean and include garbage (all rejected matters that are subject to decomposition), ashes, rubbish and trash, but not of an earthy or construction nature.

3. Recyclable Materials shall have the meaning provided in **Section 5.119** of this Chapter.

4. Major Appliance(s) shall mean an air conditioner, clothes dryer, clothes washer, furnace, boiler, dehumidifier, water heater, dishwasher, freezer, microwave oven, oven, refrigerator, or stove which is intended for disposal.

5. Bulky Solid Waste shall mean Waste and Recyclable Material which is too bulky for regular pickup, such as, but not limited to, antennas, beds, bicycles, box springs, cabinets, chairs, couches, doors, dressers, fencing, grills, gutters, lawn mowers, Major Appliances, mattresses, pools, rugs, screens, sinks, stereos, swing sets, T.V.'s, tables, toilets, toys, vacuums and windows.

6. Special Collection Sticker shall mean a sticker issued by the Department of Public Works for the disposal of Major Appliances.

7. Person includes any individual, corporation, partnership, or association.

8. Waste Collection System shall mean City collection, transportation and disposal of Waste Recyclable Materials, Major Appliances and Bulky Solid Waste.

B. Transportation of Waste Regulated. No Person, except an employee or agent of the City, shall collect and transport Waste, Recyclable Materials, Major Appliances and/or Bulky Solid Waste on any street without obtaining a license therefor.

C. Dumping. No Person shall dump or bury Waste, Recyclable Materials, Major Appliances, Bulky Solid Waste, Household Hazardous Waste, or hazardous or infectious medical Waste in any street, alley, park or public place.

D. Regulation for Collection. The Board of Public Works (Committee on Public Works) is authorized and directed to make and enforce regulations for the collection of Wastes, Recyclable Materials, Major Appliances, Bulky Solid Waste and Household Hazardous Waste which may prescribe:

1. Size, type, condition and usage of containers to be used by patrons of the Waste Collection System.

2. Separation of Wastes, Recyclable Materials, Major Appliances and Household Hazardous Waste for collection.

3. Time of collections.

4. Other requirements to be observed by patrons of the Waste Collection System.

E. Service Fees. Fees for patrons of the Waste Collection System shall be determined from time to time by the Common Council, following review and recommendation by the Committee on Public Works and the Committee on Finance.

F. Place of Collection. All Wastes and Recyclable Material shall be deposited for curbside collection on the day designated for collection. Bulky Solid Waste and Recyclable Material shall be governed by **Subsection H**. Household Hazardous Waste shall be governed by **Subsection J**.

G. License. Each privately owned vehicle used for the transportation and collection of Waste, or Recyclable Materials within the City, where a fee for such service is charged therefor, shall be licensed by the City prior to performing said service. The license shall be conditioned upon the licensee performing said services in accordance with City Ordinances and the regulations for such service as are or may be established by the Board of Public Works (Committee on Public Works). The fee for said license shall be Forty-five (\$45.00) Dollars for the first vehicle operated by a Person, firm, corporation or party and Thirty-five (\$35.00) Dollars for each additional vehicle. Licenses shall be issued by the City Clerk/Treasurer upon the advance payment in lawful United States currency of the amount therefor. All licenses shall expire on June 30th of each year.

Licensees shall be responsible for maintaining Waste containers which they furnish to patrons in good working order and in a sanitary condition and in a manner which will prevent leaks or other seepage or loss of Waste. Licensees shall be responsible for cleaning such Waste containers as often as is necessary in order to maintain them in a clean and sanitary condition, and the duty to clean said containers cannot be delegated to users of said containers.

H. Bulky Solid Waste, Recyclable Material and Major Appliance Collection and Removal.

1. Special Pickup. Bulky Solid Waste from residential buildings of four (4) or less units will be collected upon the party desiring the pickup prearranging with the Public Works Department for a Special Pickup.

2. Number and Charge. There will be a limit of four (4) Special Pickups per year without charge. If there are requests for more than four (4) Pickups, there will be a pickup charge per each additional request, which will be determined from time to time by the Board of Public Works (Committee on Public Works).

3. Major Appliances. Effective March 1, 2004, Major Appliances shall have a Special Collection Sticker attached prior to scheduling a Special Pickup. The fee for the sticker will be determined from time to time by the Board of Public Works (Committee on Public Works).

4. Designated Collection Area. Bulky Solid Waste and Recyclable Material shall be deposited for collection in the area of the street right-of-way between the sidewalk and the curb abutting the premises served. It shall be unlawful for any Person, party, firm or corporation to deposit or permit the deposit of Bulky Solid Waste for collection which is not eligible for regular residential Waste pickup in other than the designated collection area, without having prearranged for Special Pickup, or more than twenty-four (24) hours in advance of a scheduled Special Pickup. Landlords shall be responsible for the acts of their tenants.

I. Recyclable Materials. From the time of placement of Recyclable Materials at the collection point for collection by the City or its authorized agent(s), Recyclable Materials shall be and become the property of City, or its authorized agent(s). It shall be a violation of this Ordinance for any Person not authorized by the City to do so, to collect or pick up or cause to be collected or picked up any Recyclable Materials. Each and every such collection in violation hereof from any one Recyclable Material container shall constitute a separate and distinct offense punishable as hereinafter provided.

J. Household Hazardous Wastes. Household Hazardous Wastes shall not be deposited with Waste for curbside pickup. Household Hazardous Waste shall be deposited only at the Kenosha Household Hazardous Waste Facility in accordance with the regulations

applicable thereto.

K. Prohibition. It shall be unlawful for any Person to operate without the required license or to perform licensed services or any other activity contrary to this Ordinance or to the regulations for such service established by the Board of Public Works (Committee on Public Works).

L. Penalty. The penalty for a violation of this Ordinance shall, upon conviction, be a forfeiture of not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars per violation, plus the costs of prosecution, and upon default of such payment, there shall be a commitment to the County Jail for a term not to exceed thirty (30) days.

5.07 REMOVAL OF TREES IN HIGHWAY

A. Order Removing. The Board of Public Works may order the removal of any tree or limb of a tree which is unsafe, or a nuisance, or a hazard to the public and which stands or lies fallen between the lot line and the curb in front of any lot or parcel of land abutting on a street or avenue.

B. Notice. A copy of such order shall be served upon the owner of each lot or parcel of land in front of which any tree or tree limb is to be removed by personally delivering the same to the owner, his agent, or lessee.

C. Default of the Owner. Whenever any such owner shall neglect for a period of twenty days after such service to remove the tree or tree limb, the City, through its Board of Public Works, may cause such tree or tree limb to be removed at the expense of the owner. All work for such removal shall be let by contract to the lowest responsible bidder unless otherwise provided by council pursuant to Subsection (l) of §62.15, Wisconsin Statutes.

D. Minor Expense. Whenever the cost of removing any tree or tree limb shall not exceed the sum of ten dollars, the Board of Public Works, may immediately remove the tree or tree limb without notice or letting the work by contract, and charge the cost thereof to the owner of such lot or parcel of land, in the manner provided in this Section.

E. Expense. The Board of Public Works shall keep an accurate account of the expenses in removing trees or tree limbs in front of each lot or parcel of land, whether the work be done by contract or otherwise, and report the same to the Director of Finance who shall annually prepare a statement of the expense so incurred in front of

each lot or parcel of land, and the amount therein charged to each lot or parcel of land shall be by the Director of Finance entered in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate.

5.08 PARKING FACILITIES

A. Definitions.

1. Parking Facility(ies) shall mean an off-street parking area, including lots from which motor vehicles are sold, but not including salvage yards or areas used to store towed motor vehicles, in any zoning district, which is utilized or constructed for the purpose of storing or parking five (5) or more motor vehicles, whether or not compensation for such services is charged, except for Parking Facilities owned or operated by a municipality and Parking Facilities owned or operated by industrial or manufacturing establishments and utilized for employee parking or for storing owned or leased vehicles.

2. Parking shall mean the keeping of motor vehicles for not more than one (1) day.

3. Storing shall mean the keeping of motor vehicles for more than one (1) day.

4. Motor Vehicles shall include mobile home, moped, motor bicycle, motor bus, motorcycle, motor-driven cycle, motor home, motor truck and motor vehicles, as defined in Chapter 340, Wisconsin Statutes. The term shall also include trailers.

5. Altered shall include enlarged, expanded, redesigned and reconstructed.

6. Director of Public Works shall include the designees thereof.

7. Parking Space shall be a designated place reserved for the placement of a stored or parked motor vehicle, exclusive of driveways, ramps, columns, office and work areas.

B. License for Parking Facility.

1. License Required.

a. No person, party, firm or corporation shall operate a parking facility within the City without first obtaining a license to do so from the Director of Public Works.

b. A Parking Facility License shall be required to be obtained from the operator of existing unlicensed parking facilities prior to the parking facility being altered, improved or modified, or where the property or business which uses the parking facility will have a change in occupancy, as defined in Section 8.04 of the City of Kenosha Zoning Ordinance.

2. License Fee. The license fee therefor shall be payable upon application. The fee, except for a processing fee, shall be refunded if the license is not issued. The Common Council will, from time to time, by Resolution, establish the Permit Fee. Should any parking facility work be commenced 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.

3. License Term. Licenses shall be in force and effect until suspended or revoked or until the Parking Facilities are altered and a new license here under issued or denied.

4. Exception. Parking Facilities licensed prior to the effective date of this Ordinance need not be relicensed hereunder unless they are altered.

5. Criteria for License Issuance. The Director of Public Works shall not grant a license hereunder unless:

a. The Parking Facility shall be located in conformance with the City Zoning Ordinance, as determined by a written report from the City Zoning Administrator.

b. The Parking Facility shall be constructed and maintained in conformance with all relevant State and City laws, rules and regulations.

c. Required Driveway Approach Permits are applied for and obtained and relevant work done in accordance therewith.

d. The Design Criteria for Parking Facilities herein specified is complied with.

e. The Parking Facility must be lighted at night in such a manner so as to make it as safe as the nature of the premises will reasonably permit for vehicular and pedestrian traffic.

6. Alteration of Parking Facilities. No Parking Facility shall be altered after the effective day of this Ordinance, without the operator thereof first obtaining a License hereunder, even though the Parking Facility would have been exempt here from had there been no alteration thereof.

7. License Application. The license application shall include the following:

a. A plan of the Parking Facility drawn to a scale of one (1") inch being equal to twenty (20') feet on a single sheet of paper, which drawing shall indicate property lines, existing structures, proposed structures, the number arrangement and size of the parking spaces, location of existing and proposed driveway approaches, width of abutting public right-of-ways, proposed routing of entering and exiting vehicular traffic, dimensions and construction of area separating Parking Facility from abutting public right-of-way, the signing and

color of pavement markings, specifications for proposed surface, proposed lighting, including pole location, height, and manufacturer and wattages of the luminaries, distance to intersecting streets and alleys, location, elevation and size of available storm sewers, elevations of Parking Facility indicated at twenty-five (25) foot intervals or one (1) foot contours, elevation of top of curb if no storm sewers are available, if the street is unimproved, the location and elevation of abutting drainage ditches and the proposed street centerline elevation, and the location of all buildings downspouts.

b. A proposed surface water drainage, containment and disposal plan, drawn to a scale of one (1") inch being equal to twenty (20') feet, which shall indicate the proposed finished elevations of the Parking Facility, the elevation of the proposed gutters and/or swales and the direction of surface water flow. The plan shall also indicate the elevations, locations and sizes of inlets, catch basins and storm sewers to be constructed in conjunction with the Parking Facility.

c. Name and address of owner and of party who will operate the Parking Facility and their legal status such as corporation, partnership, individual, etc.

d. Address of Parking Facility.

e. If any area of land was previously utilized as a Parking Facility, the date said use first occurred and whether or not and for what length of time, if any, said use has ever been interrupted, shall be stated.

8. Modifications of Plan. As an alternative to license denial, the Director of Public Works may propose modifications to any plans submitted, and if such modifications are accepted in writing by the applicant, the application shall be deemed so amended.

9. Suspension or Revocation. The Director of Public Works may suspend or revoke, following notice and hearing, any license which is issued hereunder where the terms of the license are not complied with, including the operation of a Parking Facility contrary to approved plans therefor, or the operation of any altered, previously licensed Parking Facility when no application has been filed and new license issued hereunder.

10. Appeal.

a. License Denial. A license applicant may appeal a license denial to the City Committee on Public Works within ten (10) days following receipt of written notice thereof. The notice of appeal shall be filed, in writing, with the Director of Public Works, and shall identify the issues.

b. License Suspension or Revocation. A

license holder may appeal the suspension or revocation of their license to the City Committee on Public Works within ten (10) days following receipt of written notice thereof. The notice of appeal shall be filed in writing, with the Director of Public Works, and shall identify the issues.

c. Determination of Appeals. The City Committee on Public Works shall hear appeals at their next regular meeting following the filing of a notice of appeal, providing said notice is filed two (2) full working days in advance of such next regular meeting thereof. A final written decision containing findings and conclusions, unless agreed by appellant to the contrary, shall be issued by the City Committee of Public Works within thirty (30) days of the last date of the hearing thereon.

11. Commencement of Construction or Reconstruction. The proposed construction or reconstruction of a Parking Facility must commence within six (6) months of the granting and issuance of said license. A six (6) month extension of said time may be procured for good cause if an application therefor is applied for before the expiration of the six (6) month period of time heretofore specified.

C. Design Criteria for Parking Facilities.

The following shall be the Design Criteria for Parking Facilities, including multilevel parking lots:

1. Conformance with requirements of the City Zoning Ordinance, City General Ordinances and State laws, rules and regulations. Where applicable, Conditional Use Permits must be obtained and screening in conformance with the Zoning Ordinance must be provided.

2. Parking spaces must be reserved for the physically handicapped and disabled in accordance with State and City laws, rules and regulations and appropriately marked as such.

3. The standard dimensions for a parking space shall be nine (9') feet in width and eighteen (18') feet in length. Dimensions for other space widths are given in **Tables 1** and **2** where appropriate. The space width(s) used is subject to the approval of the City Traffic Engineer. A maximum of twenty-five (25%) percent of the parking spaces required may be marked for small vehicles, provided that these spaces are designed in accordance with **Table 2**, are conveniently located, and are clearly identified and properly controlled for use only by small vehicles. "**Small vehicle**" is defined to mean any automobile or truck sixteen (16') feet or less in length. The location and control of small vehicle parking spaces is subject to the approval of the City Traffic Engineer.

4. The design of all parking facilities shall conform to the minimum dimensions specified in **Tables 1 and 2**. For any given parking angle between twenty (20°) degrees and ninety (90°) degrees not specifically listed in the Tables, use a table angle nearest the given angle. When two (2) rows of stalls use the same drive aisle for access requiring two-way traffic because of space layout, the drive aisle shall be either eighteen (18') feet in width or that which is called for in **Tables 1 and 2**, whichever is greater.

5. The location of parking spaces, direction of traffic and notation of two-way and one-way traffic shall be clearly marked in a highly visible manner.

6. Driveway entrances and exits shall be in accordance with the requirements of **Tables 1 and 2** and shall be at the location specified in a Driveway Approach Permit.

7. Surface water must not be permitted to drain upon any abutting property without the written consent of such landowner.

8. The surface of the Parking Facility shall be permanently improved with Portland Cement concrete, paving brick or with bituminous concrete pavement and must be maintained in a dust free condition to the extent possible.

9. No parking space shall extend closer than two (2') feet to any abutting property line or to the line of any right-of-way and a substantial and permanent bumper shall be placed so as to separate motor vehicles from abutting property lines or from the line of any street right-of-way so as to prevent the motor vehicle from crossing said lines.

10. No parking stall shall be located so as to require a vehicle, upon exiting, to back into any public right-of-way, except alleys may be used for ingress and egress into the Parking Facility provided the setbacks as established in **Tables 1 and 2** are complied with.

11. The internal traffic circulation of a Parking Facility shall be such that vehicles are not required to back up, except for exiting a parking stall.

12. Illumination of a Parking Facility shall be such as not to cast light rays directly onto any public right-of-way or adjacent property. Illumination shall be in accordance with specifications on file in the Office of the City Department of Public Works.

13. Conformance with specifications therefor on file in the Office of the City Department of Public Works.

14. Any other design requirement imposed by the Director of Public Works.

(See Appendix - Table 1)

(See Appendix - Table 2)

D. Penalty. Any person, party, firm or corporation who shall violate this Ordinance, shall upon conviction thereof, forfeit not more than Five Hundred (\$500) Dollars, plus the cost of prosecution. If such forfeiture and costs are not promptly paid, the violator shall be imprisoned in the County Jail for a period not to exceed ten (10) days. Each day of violation shall be a separate offense.

5.085 DRIVEWAY APPROACHES

A. Definitions. For purposes of this Ordinance, the following words shall have the meaning thereafter provided:

1. **Class I Driveway Approach** shall mean a driveway approach which serves a Type "A" site or a single parcel of property located in a residential zoning district or business zoning district which is used for residential purposes.

2. **Class II Driveway Approach** shall mean a driveway approach which serves property located in a business zoning district or in an institutional park zoning district which is not used primarily for residential purposes.

3. **Class III Driveway Approach** shall mean a driveway approach which serves business or manufacturing property and which is primarily used by buses or semi-trailer trucks.

4. **Curb Cut** shall mean that section of concrete curb removed to permit the entrance and exit of vehicles from adjacent property and shall be measured at the entrance width plus the allowable flare.

5. **Director of Public Works** shall include designees thereof.

6. **Driveway** shall mean every way or area in private ownership used for vehicular travel back of the street right-of-way line.

7. **Driveway Approach** shall mean an area within a public right-of-way which is improved for motor vehicle traffic and which connects a private road or driveway to a portion of a public right-of-way which is improved for motor vehicle traffic.

8. **Entrance** shall mean the point at which a driveway abuts the driveway approach.

9. **Flare** shall mean the portion of a driveway approach which is wider at the street curb line than at the entrance.

10. **Intersection Turning Area** shall mean the part of the street intersection included between

the radius line used to connect the curb lines and the intersection of the curb lines, if extended.

11. Type "A" Site shall mean property in a residential zoning district containing a single residential structure of one or two dwelling units having fewer than five (5) off-street parking spaces.

12. Type "B" Site shall mean all property, whether one or more contiguous lots or parts of lots, which does not meet the definition of a Type "A" site.

B. Driveway Approach Permits.

1. Permit Requirement. No person, party, firm or corporation may construct, modify, destroy or remove a driveway approach within the City or cut into any curb within the City for the purpose of constructing a driveway approach, without first having obtained a Driveway Approach Permit from the Director of Public Works. A Driveway Approach Permit shall only authorize such work to be done at a specified location, during a specified period of time, and it shall not be a substitute for a license under **§5.05 B.**, Ordinances, where one is required.

2. Permit Application. Applications for a Driveway Approach Permit shall be made on City authorized forms and filed with the Director of Public Works. Application forms shall be signed by the owner(s) of the land to be served by a driveway approach. Where land was sold under a land contract, only the buyer need sign the application form. Attached to an application form for a Class II or Class III Driveway Approach Permit shall be a plan on a single sheet of paper drawn to a scale of one (1") inch equals twenty (20') feet, indicating the proposed driveway approach, including the flare thereof, any existing driveway approach, the property lines of applicant's property and any building or structures thereon, any private designated traffic lanes on applicant's property with markings showing the direction of traffic flow, the width of the abutting public right-of-way and the width of any portion thereof reserved for motor vehicle traffic, the location of any intersecting streets or alleys within three hundred (300') feet of the driveway approach, the location of driveway approaches on abutting property, the surface treatment of the driveway approach, the rate of slope or grade of the driveway approach, the location of utility poles, fire hydrants, trees and other structures or obstructions within the portion of the public right-of-way abutting applicant's property which is not used or to be used for motor vehicle traffic.

3. Permit Fee. The Common Council will, from time to time, by Resolution, establish the Permit Fees for new Driveway Approaches and the

repair or widening of existing Driveway Approaches, which shall be payable upon application and nonrefundable. Should any such work be commenced 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.

4. Permit Duration. Permits granted shall be in effect for six (6) months, during which time all proposed work must be completed. A three (3) month extension of said time may be procured for good cause if an application for an extension therefor is applied for before the original permit expires.

C. Permit Conditions and Criteria.

1. Discontinued driveway approaches must be removed and curb and gutter installed in place thereof.

2. A driveway approach serving a Type "B" site will be approved only if the driveway approach can be used as such without motor vehicles being necessitated to be backed into any arterial or collector street.

3. The Director of Public Works must be notified of the completion of the construction of any driveway approach within two (2) working days thereafter, for the purpose of the inspection thereof.

4. The number of driveway approaches shall be limited as follows:

a. A maximum of two (2) driveway approaches shall be permitted to a Type "A" site.

b. A maximum of two (2) driveway approaches from each of any one or two abutting streets shall be permitted to a Type "B" site or to a Type "A" site where more than two (2) separate buildings containing dwelling units are located on the same site.

c. However, the Director of Public Works may, when there is no adverse effect upon traffic on abutting streets as determined by the Traffic Engineer, authorize additional driveway approaches, subject to the following guidelines:

(1) One (1) additional driveway approach along a continuous site frontage in excess of six hundred (600) feet or two (2) additional driveway approaches along a continuous site frontage in excess of twelve hundred (1,200) feet.

(2) One (1) additional driveway approach from each of not more than two (2) abutting streets where continuous frontage is less than six hundred (600) feet; provided that such additional approach(es) be used exclusively as a service drive for the purpose of loading or unloading materials or

merchandise, and which drive is physically separate from other off street vehicle facilities and not available to customers thereof through the use of a six (6") inch high raised rolled asphalt, or poured in place concrete, curb or a guardrail erected eighteen (18) inches in height to the center measured from the paved parking surface.

(3) One (1) or two (2) driveway approaches per additional abutting streets.

5. The location of driveway approaches shall be subject to the following:

a. No entrance shall be closer than fifteen (15') feet to the right-of-way line of an intersecting street, provided that no part of any driveway approach shall encroach on any intersection turning area (curb radius). Alleys shall be exempt from this provision and may be defined as "approaches," provided that the total maximum dimensions shall not exceed those permitted for other "approaches" in the same class. Where the alley is not included, the entrance must be a minimum of five (5') feet from the nearest boundary line of the alley.

b. No entrance shall be closer than one-half (1/2) foot to an abutting property line. This requirement shall not apply when adjacent property owners sign a joint application for a Driveway Approach Permit to service abutting driveways.

c. Any two (2) entrances to the same lot shall be at least ten (10') feet apart.

d. All driveway approaches shall be so located as to provide adequate sight distance in both directions along the street for safe access to the street without interfering with vehicular and pedestrian traffic on the street or sidewalk.

6. The maximum and minimum specifications for driveway approaches shall be as follows:

a. Class I

Maximum permitted width of entrance . . . 20 feet
 Minimum permitted width of entrance . . . 8 feet
 Maximum permitted curb cut 25 feet
 Minimum permitted curb cut 13 feet
 Maximum flare 25 feet

b. Class II*

Maximum permitted width of entrance . . 30 feet
 Minimum permitted width of entrance . . 18 feet
 Or two entrances of 10 feet minimum under one-way operation.
 Maximum permitted curb cut 40 feet
 Minimum permitted curb cut 28 feet
 Maximum flare 5 feet

c. Class III

Maximum permitted width of entrance . . 40 feet
 Minimum permitted width of entrance . . 35 feet
 Maximum permitted curb cut 70 feet
 Minimum permitted curb cut 65 feet

Maximum flare 15 feet

*Minimum permitted entrance width is ten (10) feet when serving twelve (12) or fewer vehicle parking spaces at a multiple-dwelling unit facility.

7. An application for a Class III driveway approach may be approved only if plans are submitted by the applicant showing that the requested driveway approach will be used nearly exclusively by semitrailers and/or buses serving the site, and that other driveway approaches intended for the exclusive use by smaller vehicles will not be used by semi-trailers and/or buses, and, further, that the use of the property is for business, industrial or manufacturing purposes.

8. The following special design features may be permitted at high-volume driveway approaches, if approved by the Director of Engineering Services/City Engineer and City Traffic Engineer:

a. One (1) or more driveway approaches may be replaced by a street-type entrance. The cost of additional drainage structures necessitated by such entrance(s) shall be borne by the permittee.

b. One (1) or more driveways to a major traffic generator may be replaced with special geometrically designed approaches and entrances where such generated traffic volumes and turning movements are in such numbers as to significantly reduce the capacity of the adjacent street and/or pose a hazard to through traffic on the adjacent street. These special geometrically designed approaches and entrances include, but are not limited to, speed change lanes, median crossovers, traffic islands and special driveway approach design treatments. The owner of the traffic generator shall be financially responsible for the cost of the special geometrically designed approaches, street lighting, traffic signals, and conduit necessitated at such approaches and entrances.

c. Right-of-way areas adjacent to driveway approaches shall be left undisturbed. A drawing accompanying the application shall show exactly how encroachment on such adjacent areas is to be prevented. If encroachment develops a need for additional protection, it shall be provided promptly by the permittee.

9. Permittee shall have the obligation to maintain any driveway approach constructed and shall assume all liability arising out of the construction and maintenance thereof and shall indemnify and hold harmless the City and its officers, employees and agents from and against any liability, loss, damages, claims, judgments, court costs or attorneys fees which they may

sustain or incur should any person or party suffer or sustain death, personal injury, or property damage therefrom.

10. The construction of the driveway approach shall not interfere with or obstruct any public right-of-way without a Street Encroachment Permit first having been obtained to do so as provided by Ordinance.

11. All work done relative to any driveway approach shall be at permittee's expense.

12. The permit may specify drainage requirements.

13. Driveway approaches must be paved, prior to use or occupancy of the property served, in accordance with specifications therefor on file in the Office of the City Department of Public Works. If the abutting portion of the right-of-way reserved for use by motor vehicles is not permanently improved, then this requirement is deferred until such time as such permanent improvements are completed.

14. The permit may be conditioned upon the Permittee, at his expense, placing conduit for traffic control or street lights under the driveway approach, pursuant to the specifications on file in the Office of the City Department of Public Works.

15. Driveway approaches shall be a sufficient distance from a controlled intersection so that the use thereof will not interfere with vehicular traffic within or approaching such intersection. Driveway approaches for parking facilities where large volumes of traffic enter or exit at one time shall be a minimum distance of one hundred twenty-five (125) feet from the crosswalk of any intersection.

16. No driveway approach for a Type "B" site shall be located within the right-of-way lines extended at the top of a "T-Intersection".

17. No driveway approach shall be located at the terminal end of a marked or unmarked crosswalk.

D. Denial of Application. An application for a Driveway Approach Permit may be denied where street access is prohibited to and from a parcel of land through a Subdivision Plat, Certified Survey Map, Condominium Plat, Development Agreement, Master Plan or deed restriction.

E. Special Assessments Where Street Access Denied. Where all access to and from a parcel of land is denied or prohibited to a certain street ("street" includes highway), the property

abutting such street shall not be specially assessed for street grading and paving due to lack of benefit. Notwithstanding the above, sidewalk special assessments are permitted. Sanitary sewer, storm sewer and water services are not governed by this Section.

The Director of Public Works shall keep a record of the amount of the special assessment which would have been levied against the abutting property had the property benefitted from the street by having access thereto.

Should the property later obtain street access, a Driveway Approach Permit shall be conditioned upon payment of the amount of the unlevied special assessment.

F. Penalties. Any person, party, firm or corporation, who violates any provision of this Ordinance shall be subject to, upon conviction, a maximum forfeiture of Five Hundred (\$500) Dollars, plus the costs of prosecution. If such forfeiture and costs are not promptly paid, the violator shall be imprisoned in the County Jail for a period not to exceed ten (10) days. Each day of violation shall be deemed a separate offense.

5.09 INSTALLATION OF MODERN (ORNAMENTAL) LIGHTING

A. Definitions.

1. **Modern Lighting.** As designated by the City of Kenosha, is synonymous with Ornamental Lighting, as designated by the Wisconsin Electric Power Company.

2. **Luminaires.** Are the light producing elements.

3. **Brackets.** Are the fixtures mounted on the poles for the suspension of the luminaires.

4. **Lighting District** is a thoroughfare or a group of thoroughfares to be lighted.

B. Categories. The modern lighting requirements of the City of Kenosha are to be divided into four categories:

1. Thoroughfares through F Commercial areas.

2. Main thoroughfares for the rapid movement of traffic.

3. Newly widened or repaved main thoroughfares

4. Lighting districts as established under **§5.09**

F. shall include other streets, areas, sections, or districts of the City of Kenosha not included in **1., 2.** and **3.** above.

C. Thoroughfares running through F Commercial areas are designated as the following lighting districts:

- 1. Lighting District Number One (1):**
6th Avenue from 55th to 59th Street.
6th Avenue "A" from 59th Street to 59th Place.
7th Avenue from 55th Street to 59th Place.
56th Street from 5th Avenue to 8th Avenue.
55th Street from 5th Avenue to 8th Avenue.
57th Street from 5th Avenue to 8th Avenue.
58th Street from 5th Avenue to 8th Avenue.
59th Street from 5th Avenue to 8th Avenue.
8th Avenue from 52nd Street to 59th Street.
5th Avenue from 55th Street to 59th Street.

- 2. Lighting District Number Two (2):**
22nd Avenue from 60th Street to Roosevelt Road.
63rd Street from between 23rd and 24th Avenues to 20th Avenue.
Roosevelt Road from between 23rd and 24th Avenues to 20th Avenue.

- 3. Lighting District Number Three (3):**
55th Street from 8th Avenue to Sheridan Road.
56th Street from 8th Avenue to Sheridan Road.
57th Street from 8th Avenue to Sheridan Road.
58th Street from 8th Avenue to Sheridan Road.

- 4. Lighting District Number Four (4):**
23rd Avenue from Roosevelt Road to 63rd Street.
22nd Avenue from 57th Street to 60th Street.

- 5. Lighting District Number Five (5):**
6th Avenue from 7th Avenue intersection to 55th Street.
51st Place.
51st Street from 6th Avenue to 8th Avenue.
52nd Street from 6th Avenue to Sheridan Road.

6. The lighting of F Commercial thoroughfares is not to be construed as that of main thoroughfares whose main purpose is the rapid movement of traffic. For thoroughfares running through F Commercial areas the City will from the general fund install two lights at each street intersection. Special assessments shall be levied and collected against abutting property in the amount such property is benefited thereby for all remaining lighting requirements, and for lights at intersections over and above those of mercury luminaires. Such special assessments to be made, levied, and

collected pursuant to §66.06 of the Wisconsin Statutes.

7. At the direction of Common Council, districts will be lighted by priority according to its use by the general public. Those districts attracting the greatest number of people per year being given priority.

D. Main Thoroughfares designed to rapidly move traffic through the City of Kenosha are as follows:

- 1.** 7th Avenue from 52nd Street north to Sheridan Road intersection. Sheridan Road from north City limits to south City limits.
22nd Avenue from 57th Street north to City Limits.
22nd Avenue from Roosevelt Road south to City Limits.
30th Avenue from Washington Road south to City Limits.
39th Avenue from 52nd Street south to 80th Street.
Washington Road from City Limits east to 7th Avenue.
50th Street from 30th Avenue east to 6th Avenue.
52nd Street from Highway 31 east to 6th Avenue.
60th Street from City Limits east to Library Park and around to 59th Street at 6th, 7th, and 8th Avenues and south to 60th Street.
75th Street from City Limits east to Lake Michigan.
80th Street from 30th Avenue to Sheridan Road.
Roosevelt Road from 39th Avenue east to between 23rd and 24th Avenues.
60th Street from 20th Avenue east to Sheridan Road.
Wilson Road.
Lincoln Road.
63rd Street from 30th Avenue east to between 22nd and 23rd Avenues.
63rd Street from 20th Avenue to Sheridan Road.

2. These main thoroughfares are to be lighted at the direction of Common Council by priority, according to the resultant figures of dividing the number of miles into the total of accidents and crimes. Exceptions to this are listed under ¶¶E.4. and E.5.

3. All costs incurred under ¶D. are to be borne by the City of Kenosha in the general public interest.

E. Main Thoroughfares which are newly widened or repaved or scheduled to be newly widened or repaved will be lighted in the following manner:

1. Main thoroughfares are designated under ¶D.1.

2. At the direction of Common Council, the Wisconsin Electric Power Company will be contacted and requested to reset their wooden poles at 100 foot intervals on newly widened or repaved main thoroughfares as listed in ¶D.1. If the Power Company cannot comply, the main thoroughfares in question will be lighted under Paragraph D.

3. Luminaries and brackets will be purchased at the direction of Common Council and installed on these poles contingent upon agreements made with the Wisconsin Electric Power Company.

4. These newly widened or repaved main thoroughfares are to be considered at the direction of Common Council over all other main thoroughfares.

5. Main thoroughfares listed under ¶D.1. that are scheduled to be widened or repaved at a future date will not be lighted until the widening or repaving has been accomplished.

6. All costs under Paragraph E. are to be borne by the City of Kenosha in the general public interest.

F. Other Lighting Districts As Established By Council. The Common Council may establish by resolution other streets areas, sections, or districts in the City of Kenosha as lighting districts. Such resolutions shall define the districts and shall provide for the method of installation.

5.10 MINIMUM WAGE SCALE FOR CERTAIN PUBLIC WORKS CONTRACTS

A. Definitions. In this Ordinance:

1. "**Building or Work**" shall mean construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work, but "building or work" shall include the delivery of mineral aggregate such as sand, gravel, asphaltic concrete or stone which is incorporated into the work under contract with the City by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

2. "**Public Works Construction**" shall mean

building or work involving the erection, construction, remodeling, repairing or demolition of buildings, parking lots, sidewalks, street lighting, traffic signals, sanitary sewers, water mains and appurtenances, storm sewers, and the grading and landscaping of public lands.

B. Application. This Ordinance shall only be applicable to public works construction contracts estimated to be over Ten Thousand (\$10,000.00) Dollars.

C. Minimum Wage Scale. The Director of Public Works, or his/her designee, or the Manager of the Kenosha Water Utility, or his/her designee, prior to the bidding or letting of a contract for any public works construction, shall determine the rate of wage scale which shall be paid by the contractor to the employees upon the project. Except for known increases contained within the schedule, the prevailing wage rate shall not change during the contract. The Director of Public Works, or his/her designee, or the Manager of the Kenosha Water Utility, or his/her designee, shall apply to the Wisconsin Department of Industry, Labor and Human Relations with respect to public works construction where it has jurisdiction, to ascertain the prevailing wage rate, hours of labor and hourly basic pay rates in all trades and occupations required in the work contemplated. In other cases, the Director of Public Works, or his/her designee, or the Manager of the Kenosha Water Utility, or his/her designee, shall make said determinations. No laborer, worker or mechanic employed directly upon the site of the project by the contractor or by a subcontractor, agent or other person, doing or contracting to do any part of the work, may be paid less than the prevailing wage rate in the same or most similar trade or occupation; nor may he or she be permitted to work a greater number of hours per day or per calendar week than the prevailing hours of labor determined under this subsection, unless he or she is paid for all hours in excess of the prevailing hours at a rate of at least 1-1/2 times his or her hourly basic rate of pay. An employee's classification shall not be changed to a classification of a lesser rate during the contract.

This subsection does not apply to wage rates and hours of employment of laborers, workers or mechanics engaged in the processing or manufacture of materials or products, or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they regularly supply such processed or manufactured materials or products. This subsection does apply to laborers, workers or mechanics delivering mineral aggregate such as sand, gravel or stone which is incorporated into the

work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

Questions regarding employee classification, rate of pay or rate of pay within a classification, shall be resolved by reference to the established practice that predominates in the industry and on which the trade or occupation rate/classification is based.

D. Records And Evidence Of Compliance.

Each contractor, subcontractor or agent thereof participating in a project covered by this Ordinance shall keep full and accurate records clearly indicating the name and trade or occupation of every laborer, worker or mechanic employed thereby in connection with the project and an accurate record of the number of hours worked by each employee and the actual wages paid therefor.

Each agent or subcontractor shall furnish the contractor with evidence of compliance with this subsection.

Upon completion of the project and prior to final payment therefor, each contractor shall file with the Department of Public Works or the Kenosha Water Utility, whichever Department determined the wage scale in **Subsection C.** herein, an affidavit stating that contractor has complied fully with the provisions and requirements of this Ordinance, and that contractor has received evidence of compliance from each of contractor's agents and subcontractors. No final payment shall be made until such an affidavit is filed in proper form and order.

The Director of Public Works, or Manager of the Kenosha Water Utility, or City Attorney, or designee thereof, may demand and examine copies of any payrolls and other records and information relating to the wages paid laborers, workers or mechanics on work to which this Ordinance applies.

E. Bids, Classifications and Posting.

1. Reference to prevailing wage rates and hours of labor determined by the Wisconsin Department of Industry, Labor and Human Relations shall be published in the notice issued for the purpose of securing bids for the project. Wherever any contract for any public works construction is entered into, the wage rates and hours determined shall be incorporated into and made a part of such contract.

2. After bids have been opened and made public, the contractor who has submitted the

apparent low bid, by the end of the next regular work day of the City, shall submit in writing the classifications of all the employees of the contractor, subcontractors and agents, and the total number of hours estimated in each classification for the work. The classifications shall be reviewed by the Director of Public Works or General Manager of the Kenosha Water Utility, who may, within ten (10) days, object to any classification which is not reflective of that which would be required for the work. Failure to comply with this paragraph may result in rejection of the bid.

3. For the information of the employees working on the project, the wage rates and hours determined by the Department of Industry, Labor and Human Relations, the Director of Public Works, or General Manager of the Kenosha Water Utility shall be kept posted by the employer in at least one conspicuous and easily accessible place at the site of the project.

F. Penalty. Whenever the Director of Public Works, General Manager of the Kenosha Water Utility, or the Department of Industry, Labor and Human Relations for the State of Wisconsin, has established a rate of wage scale to be paid to employees for public works construction by a contractor and it is found upon due proof that the contractor is not paying or has failed to pay the wage scale established, or is directly or indirectly, by a system of rebates or otherwise, violating this Ordinance, the contractor may be required to pay a forfeiture not to exceed Five Hundred (\$500.00) Dollars for each offense, plus the costs of prosecution. The failure to pay the required wage to an employee for any one (1) week or part thereof constitutes a separate offense.

5.11 SIDEWALKS AND ALLEYS TO BE KEPT CLEAN BY RESPONSIBLE PARTY

A. Definitions. The following definitions shall apply in the interpretation and enforcement of this Ordinance:

1. "**Alley**" means a public thoroughfare less than thirty (30) feet in width.

2. "**Sidewalk**" means that portion of a street between the curb lines, or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians, whether paved or unpaved.

With respect to corner lots, the sidewalk shall include the crosswalk area and extend to the curb or street line, and include the curb.

3. "**Responsible Party**" as herein used means the owner, occupant or party in charge of the property abutting or fronting a sidewalk,

whether they be a person, partnership, corporation, joint stock company or syndicate. In construing the provisions of this Section, only owners of vacant lots or vacant premises are deemed to be the proper person whose duty it shall be to comply with the provisions of this Section; where the real property consists of a single family residence or is solely used for business, the owner or occupant shall be deemed to be the proper person whose duty it shall be to comply with the provisions of this Section; and as to any other real property, the owner or any occupants, unless a person has been designated in writing by the owner to be the person in charge of the premises and is residing thereon, are deemed to be the responsible party whose duty it shall be to comply with the provisions of this Section.

4. "Thoroughfare" shall mean an open, unoccupied space permanently reserved for the purpose of access to abutting property.

B. Duty.

1. The responsible party shall remove and clear away or cause to remove or clear away all snow and ice from sidewalks within twenty-four (24) hours of the day following a snow fall; provided that when ice has so formed on any sidewalk that it cannot be removed, then the persons herein before referred to shall cause said ice from remaining and presenting a hazard to the users of the sidewalk by use of sand, abrasive material or any product designed to prevent ice from forming or to remain in its form and not to be injurious to the health and safety of the public.

2. The responsible party shall keep the sidewalk clean of any dirt or dust, when paved, and of any cinders, ashes, mud, oil and other similar substances when the sidewalks are clear of snow and ice.

3. The responsible party shall keep the sidewalk clear of water and ice accumulations, in the same manner provided in **Subsection 1.** above, when said accumulations of water or ice are caused by a runoff of water from any natural or man made source originating from the abutting or fronting property, including, but not limited to, water discharged from sump pumps.

4. The responsible party shall keep and maintain the alley abutting their property, to the centerline thereof, clean and free from all garbage, trash, junk, paper and debris at all times, and clean of any dirt or dust when paved, and of any cinders, ashes, mud, oil and other similar substances when the alley is clear of snow and ice.

C. Enforcement. It shall be the duty of the Department of Public Works, upon receiving a complaint from a party identifying themselves by name and address, to investigate an alleged violation of this Ordinance. Designees of the Director of Public Works may enforce this Ordinance through the issuance of citations.

D. Stipulation As To Guilt Or Plea Of No Contest. Any responsible party receiving a citation for failure to comply with this Ordinance, shall be permitted to stipulate his guilt to the offense charged upon payment of the penalty herein designated. The stipulation of guilt shall be made on a form approved by the City Attorney setting forth the date of offense, date citation issued, the name of the person issuing the citation, the location of the violation, and an admission of guilt or plea of no contest evidenced by the signature of the person arrested. Payment of the penalty herein designated must accompany the stipulation of guilt or no contest, which may be mailed to or delivered to the Office of the City Clerk/Treasurer.

E. Penalty. The penalty for violation of this Ordinance shall be as follows:

1. Twenty (\$20) Dollars for the first violation within a given calendar year.
2. Forty (\$40) Dollars for the second and third violations within a given calendar year.
3. Sixty (\$60) Dollars for the fourth violation and every violation thereafter, within a given calendar year.
4. The above penalties shall double if not paid within seven (7) days of the date of the offense, not including the day of the offense.
5. The penalty provisions of **§5.12** of this Chapter are not applicable, being superseded by this subsection.

F. Emergency Enforcement. In addition to the penalties herein prescribed, the Director of Public Works, or his designee, shall be authorized to do, or have done, such acts as are necessary to bring the abutting or fronting sidewalk and or alley in compliance with this Ordinance. Once each calendar year, the City Department of Public Works shall publish a legal notice in the official City newspaper advising responsible parties of their duties hereunder and of the penalties for noncompliance with this Ordinance and the remedial powers of the Department of Public Works. Prior to the Department of Public Works doing or authorizing any work to be done at the cost and expense of the responsible party, an attempt shall be made to notify the responsible party by written notice, served personally or by mail. Said Director, or designee, shall keep an

itemized record of expenses incurred and submit said itemization to the responsible party for payment within thirty (30) days of the date of service thereof, not including the date of service. If such charge is not paid when due, the Director, or designee, is authorized to pay said bill, if the services were not performed by City employees. Said Director, or designee, is further directed to collect the unpaid portion of said invoice as a special charge against the abutting or fronting property. A Seventy (\$70.00) Dollar Administrative Fee for processing and administering the special assessment shall be added to the special assessment against the abutting or fronting property.

G. Saving Clause. Should any part or provision of this Ordinance be declared unconstitutional and unenforceable, the remaining constitutional provisions shall be deemed separable and of full force and effect.

5.115 SUMP PUMPS

A. Definitions.

1. **"Director"** shall mean the Director or acting Director of the Department of Public Works, or his/her designee.

2. **"Public Nuisance"** shall mean a water discharge from any sump pump within the City which accumulates or freezes on any public right-of-way or which is discharged into a City sanitary sewer or which otherwise endangers the public health, safety or welfare. A public nuisance shall be deemed to exist where the condition complained of has temporarily ceased to exist but where the condition is likely to occur in the future.

B. Specifications. Foundation drains shall be connected to sump pits as specified in the State Plumbing Code. Sump pumps and the installation of sump pumps shall be in compliance with the State Plumbing Code.

C. Discharge. All construction in lands platted or subdivided after January 1, 1999, shall provide for the connection of all sump pump discharge lines directly to the nearest available storm sewer line; or, where a storm sewer is not available, onto the surface of the ground at least ten (10') feet from the building foundation. Where a storm sewer is not available, the discharge shall be directed to flow to the rear lot line or toward the street and shall not be directed so as to flow onto adjacent property, so as to flow over or accumulate upon a public sidewalk or as to create or maintain a public nuisance. Whenever a sump pump discharge is determined by the Director to have

flowed over or accumulated upon a public sidewalk, the Director may order the owner of the property which is the source of the said discharge to bury under the public sidewalk a nonporous conduit for said discharging waters which will be cut into the curb, where present, so as to enable the discharging water to flow directly into the gutter of the street.

D. Notice to Property Owner. Where the Director has determined that the discharge from a sump pump is unlawful or has created a public nuisance, the Director shall notify the property owner thereof and order compliance with this Ordinance or the abatement of said public nuisance within thirty (30) days following the date of the notice.

E. Appeal. The property owner may appeal the order of the Director to the Public Works Committee by serving a notice of appeal upon the Director within the thirty (30) day period referred to in Subsection D. The Public Works Committee shall hold a hearing within thirty (30) days following the receipt of the request therefor and it may uphold, reverse or modify the order of the Director. If the Public Works Committee upholds the Director in full or in part, the property owner shall be ordered to take corrective action within thirty (30) days following the date of the decision of the Public Works Committee.

F. Waiver. The property owner, by not requesting a timely hearing following the receipt of a thirty (30) day notice and order, shall waive any right he may have or claim to said hearing.

G. Corrective Action By Director. In the event of an illegal sump pump discharge, whether or not the discharge has caused a public nuisance, the Director may take corrective action where the property owner fails to do so in a timely manner, and the Director shall bill the property owner for the full cost of corrective acts and demand payment within thirty (30) days. Where timely payment has not been made, the Director shall tax said cost against the property, which was the site of the offense herein relevant, as a special assessment.

In the event that a public nuisance has resulted from a lawful sump pump discharge and a redirection of the discharge is required to abate the public nuisance, the Engineering Division shall develop a plan and cost estimate for nuisance abatement, and forward said plan and estimate to the Committee on Public Works and owner(s) of relevant property. The Committee, following notice and opportunity to be heard, may authorize the City to participate in the cost of nuisance abatement,

where sufficient funds have been appropriated therefor. Under such circumstances, the property owner shall be liable for fifty (50%) percent of the cost of abatement or One Thousand (\$1,000) Dollars, whichever is less.

5.116 SIDEWALK INSPECTION AND REPLACEMENT POLICY AND PROCEDURE

A. Purpose. The purpose of this Ordinance is to create a policy and procedure for sidewalk inspection and replacement so as to provide for sidewalk replacement before a sidewalk deteriorates to the point that it could endanger the public safety.

B. Policy. It is the declared policy of the City of Kenosha that sidewalks shall be kept in repair by and at the expense of abutting property owners.

C. Procedure. The City Engineer shall have the authority of the Board of Public Works as provided for in §66.615, Wisconsin Statutes, and he/she shall designate one (1) or more subordinates as Sidewalk Inspectors who shall have the duty of inspecting the sidewalks within the City and ordering and arranging for the replacement of sidewalks. The costs of sidewalk replacement, where performed by or through the City, shall be billed to the property owner and if not paid within thirty (30) days, collected as a special assessment due in one (1) installment.

D. Definitions Of Words Used Herein.

1. "**Crack**" shall mean a fissure within a sidewalk square.
2. "**Joint**" shall mean a cleavage created for expansion purposes which separates two or more sidewalk squares.
3. "**Pitch**" shall mean the constructed slope of a sidewalk to the street (normally one quarter inch per foot).
4. "**Sidewalk(s)**" shall mean a public sidewalk within the street right-of-way.
5. "**Sidewalk Square**" shall mean that portion of a sidewalk bordered by joints and the sidewalk edge.
6. "**Spalling**" shall mean a chipped or splintered condition of a sidewalk square.

E. Notices And Special Assessments. Section 66.615, Wisconsin Statutes, incorporated herein by reference, shall govern notices and special assessments.

F. Examples Of Conditions That Could Develop Into Hazards. Sidewalk Inspectors shall consider the following examples of conditions

which, if not addressed, could develop into a hazard, in determining whether to order a sidewalk square replaced or repaired:

1. There is a difference in height greater than one (1") inch in the elevation of adjacent sidewalk squares, except in business and commercial districts where there is a difference in height greater than one-half (1/2") inch.
2. The pitch of the sidewalk is greater than one (1") inch per foot.
3. There is a crack greater than one-half (1/2") inch in width, except in business and commercial districts where there is a crack greater than one-quarter (1/4") inch.
4. There is a difference in height greater than one-half (1/2") inch in the elevation of adjacent sections of a crack.
5. There is a depression greater than one-half (1/2") inch within a sidewalk square.
6. There is spalling which has resulted in a depression greater than one-quarter (1/4") inch.
7. There has been a temporary sidewalk repair.

G. Temporary Sidewalk Repair. No sidewalk square shall be ordered or arranged to be repaired by way of crack fillers, wedges, surface treatments or the like by a Sidewalk Inspector, except as a temporary measure pending replacement. Sidewalk squares which, upon inspection, are noted to have been temporarily repaired shall be ordered or arranged to be replaced. However, where the only defect is a difference in elevation due to settlement, it shall be permissible to remedy said condition without replacing the sidewalk square.

H. Documentation of Inspection. Sidewalk Inspectors, upon finding a sidewalk in need of replacement or repair, shall document the date of sidewalk inspection and condition of the sidewalk, and notify the property owner in writing of the condition of the sidewalk and corrective action required.

5.117 CONTROL OF NOXIOUS WEEDS

A. Definitions.

1. "**Noxious Weeds**" shall mean Canada Thistle, leafy spurge, field bindweed (Creeping Jenny), Ambrosia trifida (commonly called Giant Ragweed), Arubuoisia artemesiifia (commonly called Common Ragweed), and such other weeds as are defined in "Weeds of the North Central States, North Central Regional Research Publication No. 281, Bulletin 772" published by the University of Illinois at Urbana-Champaign, College of Agriculture, Agricultural Experiment Station.

2. "**Destroy**" shall mean the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at such time and in such manner as will effectually prevent such plants from maturing to the bloom or flower stage.

B. Requirement. Every person shall destroy all noxious weeds on all lands which he shall own, occupy or control, including lawn park areas defined and governed by **§5.051** of the Code of General Ordinances. Every person shall destroy all noxious weeds on all lands which he shall own, occupy or control. Within the city this shall include the parkway, which is the abutting property owner's responsibility, per **§5.051**. The person having immediate charge of any public lands shall destroy all noxious weeds on such lands.

C. Notice. On or before May 15 of each year, a Class 2 Notice, under Ch. 985, Wisconsin Statutes, shall be published in the official city newspaper, that every person is required by law to destroy all noxious weeds on lands within the city which the person owns, occupies or controls.

D. Weed Commissioner. The Director of Neighborhood Services and Inspections, in accordance with Sections 66.97 and 66.98, Wisconsin Statutes, shall, upon appointment by the Mayor, be the "Weed Commissioner", and shall designate subordinates to assist him or her in the performance of the duties of said position, who shall be Deputy Weed Commissioners. Weed Commissioners and Deputy Weed Commissioners shall perform their duties without special and separate compensation.

E. Destruction of Noxious Weeds by Weed Commissioner. The Weed Commissioner shall destroy noxious weeds which equal or exceed twelve (12") inches in height by cutting, and shall recover the cost through special assessments levied against the property upon which noxious weeds were cut. A Fifty (\$50.00) Dollar Administrative Fee for processing and administering the special assessment shall be added to the special assessment against the benefited property.

5.118 CITY OWNED CEMETERIES

A. Definitions. **Improvement** shall mean any building, structure or utility. The term shall not include fencing and landscaping, the placement or construction of burial vaults, mausoleums, the placement or replacement of any headstone, or any appurtenances customarily found in cemeteries.

B. Construction, Installation And Placement Of Improvements. No improvement shall be constructed, installed or placed upon a City owned cemetery until the plans and site therefor have been reviewed by the Committee on Public Works, City Plan Commission and the Landmarks Commission.

C. Prohibited Uses. No City owned cemetery or portion thereof shall be used for any purpose which is not related to the operation and maintenance of a cemetery. Utility easements shall not be granted in, under or across any City owned cemetery which are not related to the operation of said cemetery.

5.119 RECYCLING

A. Purpose. The purpose of this Ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided for in Section 159.11, Wisconsin Statutes, and Chapter NR 544, Wisconsin Administrative Code.

B. Statutory Authority. This Ordinance is adopted as authorized under Section 159.09(3)(b), Wisconsin Statutes, and the Code of General Ordinances for the City of Kenosha, Wisconsin.

C. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall apply.

D. Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this Ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this Ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wisconsin Administrative Code, and where the Ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this Ordinance, or in effect on the date of the most recent text amendment to this Ordinance.

E. Severability. Should any portion of this Ordinance be declared unconstitutional or invalid by

a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

F. Applicability. The requirements of this Ordinance shall apply to all Persons within the City of Kenosha, Wisconsin.

G. Administration. The provisions of this Ordinance shall be administered by the Department of Public Works.

H. Definitions. For the purposes of this Ordinance:

1. **"Bare Wood"** means any wood that is untreated, unpainted, and/or unvarnished, excluding yard waste and/or brush, without hardware, other than nails.

2. **"Bi-metal Container"** means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

3. **"Brush"** includes clean, woody, vegetative material no greater than six (6') inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

4. **"Clean Concrete"** shall include concrete, stone, brick and/or masonry products without hardware.

5. **"Container Board"** means corrugated paperboard used in the manufacture of shipping containers and related products.

6. **"Foam Polystyrene Packaging"** means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

a. Is designed for serving food or beverages.

b. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

c. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

7. **"HDPE"** means high density polyethylene, labeled by the SPI Code #2.

8. **"LDPE"** means low density polyethylene, labeled by the SPI Code #4.

9. **"Magazines"** means magazines and other materials printed on similar paper.

10. **"Major Appliance"** means an air conditioner, clothes dryer, clothes washer, furnace, boiler, dehumidifier, water heater, dishwasher, freezer, microwave oven, oven, refrigerator or stove, which is intended for disposal.

11. **"Multiple-Family Dwelling"** means a property containing five (5) or more residential units, including those which are occupied seasonally.

12. **"Newspaper"** means a newspaper and other materials printed on newsprint.

13. **"Nonresidential Facilities and**

Properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include Multiple Family Dwellings.

14. **"Office Paper"** means high grade printing and writing papers from offices in Nonresidential Facilities and Properties. Printed white ledger and computer printout are examples of Office Paper generally accepted as high grade. This term does not include industrial process waste.

15. **"Other Resins or Multiple Resins"** means plastic resins labeled by the SPI Code #7.

16. **"Person"** includes any individual, corporation, partnership, association, local governmental unit, as defined in Section 66.299(1)(a), Wisconsin Statutes, State agency or authority or Federal agency.

17. **"PETE"** means polyethylene terephthalate, labeled by the SPI Code #1.

18. **"Plastic Container"** means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

19. **"Postconsumer Waste"** means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Section 144.61(5), Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high volume industrial waste, as defined in Section 144.44(7)(a)1., Wisconsin Statutes.

20. **"PP"** means polypropylene, labeled by the SPI Code #5.

21. **"PS"** means polystyrene, labeled by the SPI Code #6.

22. **"PVC"** means polyvinyl chloride, labeled by the SPI Code #3.

23. **"Recycling Facility"** means any facility or property designated and operated by the City as a site to be used by authorized Persons for the deposit and disposal of recyclable materials.

24. **"Recyclable Materials"** includes lead acid batteries; Major Appliances; waste oil; Yard Waste; aluminum containers; corrugated paper or other Container Board; Foam Polystyrene Packaging; brown, green, clear and mixed glass containers; Magazines; Newspaper; Office Paper; rigid Plastic Containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and Other Resins or Multiple Resins; steel containers; waste tires; and Bimetal Containers.

25. **"Solid Waste"** has the meaning specified in Section 144.01(15), Wisconsin Statutes.

26. **"Solid Waste Facility"** has the meaning specified in Section 144.43(5), Wisconsin Statutes.

27. **"Solid Waste Treatment"** means any method, technique or process which is designed to change the physical, chemical or biological character or composition of Solid Waste.

"Treatment" includes incineration.

28. "Special Collection Sticker" shall mean a sticker issued by the Department of Public Works for the disposal of Major Appliances.

29. "Waste Tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

30. "Yard Waste" means leaves, grass clippings, yard and garden debris.

31. "Mixed Waste Paper" includes junk mail, school papers, telephone books, untreated office paper, stationary, paper bags, construction paper, file folders, unlaminated folders, unglassy greeting cards, paperback books, hardcover books (if hard cover is removed), flyers, catalogs, typing paper, printer paper, brown and white paper bags, envelopes, bills and invoices.

32. "Paperboard" includes dry unlined boxboard items that do not have a wax coating, which are not food or beverage contaminated.

I. Separation of Recyclable Materials.

Occupants of single family and two (2) to four (4) family residential units, Multiple Family Dwellings and Nonresidential Facilities and Properties shall separate the following materials from Postconsumer Waste:

1. Lead Acid Batteries;
2. Major Appliances;
3. Waste Oil;
4. Yard Waste;
5. Aluminum Containers;
6. Bimetal Containers;
7. Corrugated Paper or other Container Board;
8. Foam Polystyrene Packaging;
9. Brown, green and clear glass containers;
10. Magazines;
11. Newspaper;
12. Office Paper;
13. Rigid Plastic Containers made of PETE, HDPE, PVC, LDPE, PP, PS, and Other Resins or Multiple Resins.
14. Steel Containers; and
15. Waste Tires.
16. Mixed Waste Paper.
17. Paperboard.

J. Separation Requirements Exempted.

The separation requirements of Subsection I. do not apply to the following:

1. Occupants of single family and two (2) to four (4) family residential units, Multiple Family Dwellings, and Nonresidential Facilities and Properties that send their Postconsumer Waste to a processing facility licensed by the Wisconsin Department of Natural Resources (DNR) that

recovers the materials specified in Subsection I. from Solid Waste in as pure a form as is technically feasible.

2. Solid Waste which is burned as a supplemental fuel at a facility if less than thirty (30%) percent of the heat input to the facility is derived from the Solid Waste burned as supplemental fuel.

3. A Recyclable Material specified in Subsection I.5. through 15. for which a variance has been granted by the Department of Natural Resources under Section 159.11(2m), Wisconsin Statutes, or Section NR 544.14, Wisconsin Administrative Code.

K. Care of Separated Recyclable Materials.

To the greatest extent practicable, the Recyclable Materials separated in accordance with Subsection I. shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-Recyclable Materials, including, but not limited to, Household Hazardous Waste, medical waste and agricultural chemical containers. Recyclable Materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions. Recyclable Materials shall not be deposited at curbside more than twenty-four (24) hours in advance of a scheduled pickup.

L. Management of Lead Acid Batteries, Major Appliances, Waste Oil, Yard Waste, Brush, Bare Wood and Clean Concrete.

Occupants of single family and two (2) to four (4) family residential units shall manage lead acid batteries, Major Appliances, waste oil, and Yard Waste as follows:

1. **Lead acid batteries** shall be taken to an area retail business which sells batteries or to the Recycling Facility.

2. **Major Appliances** shall be deposited for curbside collection subject to a prearranged appointment for collection made with the Public Works Department. All Major Appliances shall have a Special Collection Sticker purchased prior to arranging an appointment for collection. All Major Appliances arranged for the collection shall have the Special Collection Sticker attached. The fee for the sticker will be determined from time to time by the Board of Public Works (Committee on Public Works).

3. **Waste oil** shall be taken to the Recycling Facility.

4. **Yard Waste** shall be taken to the Recycling Facility. For four (4) weeks in the Spring and eight (8) weeks in the Fall, Yard Waste will be collected curbside in City of Kenosha approved

biodegradable bags.

5. Brush may be dropped off at the Recycling Facility or a curbside pickup may be scheduled by calling the Public Works Department.

6. Bare Wood may be taken to the Bulk Waste Drop-Off Facility.

7. Clean Concrete may be taken to the Street Division Yard.

M.

Preparation and Collection of Recyclable Materials. Except as otherwise directed by the City of Kenosha Public Works Department, occupants of single family and two (2) to four (4) family residential units shall do the following for the preparation and collection of the separated materials specified in Subsection **I.5.** through **15.:**

1. Aluminum Containers shall be rinsed and placed in blue plastic bags for curbside collection on the day designated for collection.

2. Bimetal Containers shall be rinsed and placed in blue plastic bags for curbside collection on the day designated for collection.

3. Corrugated Paper or Other Container Board shall be broken down, flattened and tied. Corrugated paper may be taken to the Recycling Facility, or placed for curbside collection on the day designated for collection.

4. Foam Polystyrene Packaging shall be taken to the Recycling Facility.

5. Glass Containers shall be rinsed with the lids removed and discarded. All colors of glass containers should be placed in blue plastic bags for curbside recycling collection on the day designated for collection.

6. Magazines shall be tied with string or placed in a brown paper grocery bag for curbside collection on the day designated for collection.

7. Newspaper shall be placed in a brown paper grocery bag and placed curbside for recycling collection on designated day.

8. Office Paper shall be collected only in offices.

9. Rigid Plastic Containers shall have caps removed and discarded, shall be rinsed free of product residue and collected as follows: Plastic Containers made of PETE, HDPE, PVC, LDPE, PP and PS (containers marked by SPI Code #1-7), shall be placed in blue plastic bags for curbside recycling collection on the day designated for collection.

10. Steel Containers shall be rinsed and placed in a blue plastic bag for curbside collection on the day designated for collection.

11. Automobile Waste Tires, not to exceed four (4) in number per visit and/or curbside collection. Automobile Waste Tires shall be taken to the Recycling Facility. A curbside pickup may be

scheduled by calling the Public Works Department, or recycled wherever tires were purchased. Automobile Waste Tires that are still attached to the rim will not be accepted at the Recycling Facility and/or curbside collection.

12. Mixed Waste Paper shall be placed in brown bag(s) and placed curbside for recycling collection on the day designated for collection.

13. Paperboard. If applicable, plastic bag inserts shall be removed and discarded. Paperboard shall be placed in brown bag(s) and/or flattened, bundled and tied, and placed curbside for recycling collection on the day designated for collection.

N. Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.

1. Owners or designated agents of Multiple Family Dwellings shall do all of the following to recycle the materials specified in Subsection **I.5.** through **15.:**

a. Provide adequate, separate containers for the Recyclable Materials.

b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the recycling program established in this Ordinance.

c. Provide for the collection of Recyclable Materials separated from the Solid Waste by the tenants and the delivery of Recyclable Materials to the Recycling Facility.

d. Notify tenants of reasons to reduce and recycle Solid Waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact Person or company, including a name, address and telephone number.

2. The requirements specified in Subsection **N.1.** do not apply to the owners or designated agents of Multiple Family Dwellings if the Postconsumer Waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Subsection **I.5.** through **15.** from Solid Waste in as pure a form as is technically feasible.

O. Responsibilities of Owners or Designated Agents of NonResidential Facilities and Properties.

1. Owners or designated agents of Nonresidential Facilities and Properties shall do all of the following to recycle the materials specified in Subsections **I.5.** through **15.:**

a. Provide adequate, separate containers for

the Recyclable Materials.

b. Notify in writing, at least semiannually, all users, tenants and occupants of the Nonresidential Facilities and Properties about the Recycling Program established in this Ordinance.

c. Provide for the collection of Recyclable Materials separated from the Solid Waste by the users, tenants and occupants and the delivery of the Recyclable Materials to a Recycling Facility.

d. Notify users, tenants and occupants of reasons to reduce and recycle Solid Waste, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact Person or company, including a name, address and telephone number.

2. The requirements specified in Paragraph **1.** do not apply to the owners or designated agents on Nonresidential Facilities and Properties if the Postconsumer Waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section **1.5.** through **15.** from Solid Waste in as pure a form as is technically feasible.

P. Prohibitions on Disposal of Recyclable Materials Separated for Recycling. No Person may dispose of in a Solid Waste Disposal Facility, or burn in a Solid Waste Treatment Facility, any of the materials specified in Subsections **1.5.** through **15.** which have been separated for recycling, except Waste Tires may be burned with energy recovery in a Solid Waste Treatment Facility in compliance with Federal, State and City laws, rules and regulations.

Q. Enforcement.

1. For the purpose of ascertaining compliance with the provisions of this Ordinance, any authorized officer, employee or representative of the City of Kenosha Department of Public Works, Police Department or Kenosha County Health Department may inspect Recyclable Materials separated for recycling, Postconsumer Waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of Multiple Family Dwellings and Nonresidential Facilities and Properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information.

2. No Person who receives curbside Solid Waste collection may refuse access to any authorized officer, employee or representative of the City of Kenosha Department of Public Works,

Police Department or Kenosha County Health Department who requests access for purposes of inspection, and who presents appropriate credentials without losing their right to curbside collection following notice and an opportunity to be heard. No person may obstruct, hamper, or interfere with such an inspection.

3. Any Person who violates a provision of this Ordinance may be issued a citation by an authorized officer, employee or representative. The issuance of a citation shall not preclude the City from proceeding under any other Ordinance or law relating to the same or any other matter. Proceeding under any other Ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

4. Penalties for violating this Ordinance may be assessed as follows:

a. Any Person who violates Subsection **P.** may be required, upon conviction, to forfeit not more than Fifty (\$50.00) Dollars for a first violation, Two Hundred (\$200.00) Dollars for a second violation, and Two Thousand (\$2,000.00) Dollars for a third and subsequent violation, plus the costs of prosecution.

b. Any Person who violates a provision of this Ordinance, except Subsection **P.**, may be required, upon conviction, to forfeit not less than Ten (\$10.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars for each violation, plus the costs of prosecution.

5.12 PENALTIES

Any person, firm, party or corporation violating any of the provisions of this Chapter, or rules, regulations, or standards made pursuant thereto, shall upon conviction pay a forfeiture not to exceed One Thousand (\$1,000.00) Dollars, together with the costs of prosecution, and in default of such payment shall be committed to the County Jail for a period not to exceed ninety (90) days. Each day of violation shall be a separate offense.

APPENDIX - TABLE 1
MEDIUM & LARGE VEHICLE PARKING DESIGN STANDARDS

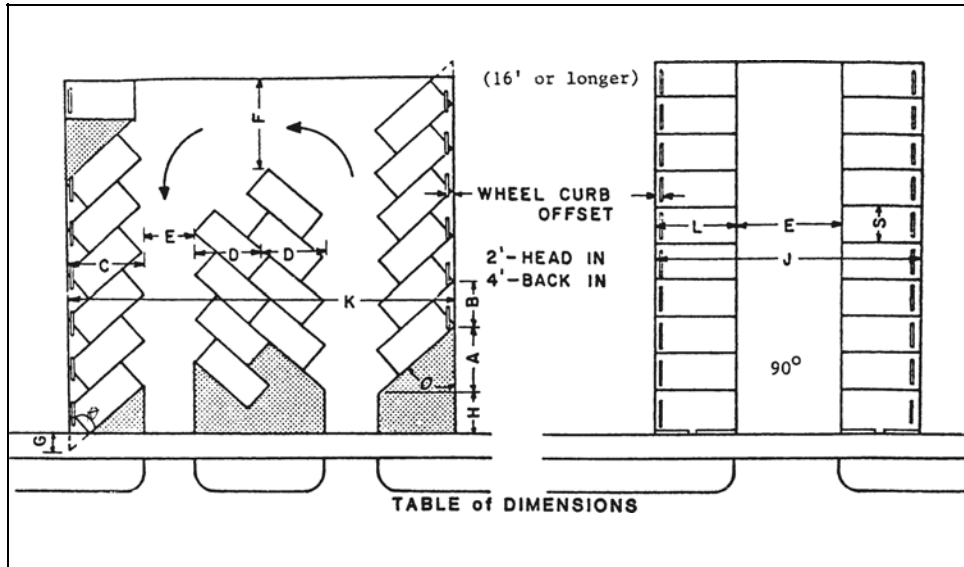


TABLE OF DIMENSIONS

0	S	L	A	B	C	D	E	F	G	H	J	
0°	9.0	25	0.0	25	9.0	9.0	10.0		0.0	0.0	28.0	
20°	9.0	18	41.0	26.0	15.0	14.0	9.5		22.8	4.0	39.5	77.0
	9.5	18	41.0	28.0	15.0	14.5	9.5		23.8	4.0	39.5	77.0
	10.0	18	42.5	29.0	15.5	15.0	9.0		24.8	4.0	40.0	79.0
30°	9.0	18	30.0	18.0	16.5	13.0	9.5		13.5	6.0	42.5	78.0
	9.5	18	30.0	19.0	17.0	13.5	9.0		14.3	6.0	43.0	79.0
	10.0	18	30.5	20.0	17.5	13.5	9.0		14.8	6.0	44.0	80.0
40°	9.0	18	22.5	14.0	19.0	15.0	10.0		8.3	8.0	48.0	88.0
	9.5	18	22.5	15.0	19.0	15.0	10.0		8.8	7.5	48.0	88.0
	10.0	18	23.0	15.5	19.5	15.5	9.5		9.0	7.0	48.5	88.0
45°	9.0	18	20.0	12.5	19.0	16.0	10.0	16.0	6.4	9.0	48.0	90.0
	9.5	18	20.0	13.5	19.5	16.5	9.0	16.5	6.8	8.5	48.0	90.0
	10.0	18	20.5	14.0	20.0	16.5	9.0	17.0	7.0	8.0	49.0	90.0
50°	9.0	18	17.0	12.0	20.0	17.5	10.5	16.5	5.5	10.0	50.5	96.0
	9.5	18	17.0	12.5	20.5	18.0	10.0	16.5	5.8	9.5	51.0	97.0
	10.0	18	17.0	13.0	20.5	18.0	10.0	17.0	6.0	9.0	51.0	97.0
60°	9.0	18	12.0	10.5	20.5	18.0	17.0	15.0	2.6	12.0	58.0	111.0
	9.5	18	12.5	11.0	21.0	18.0	16.0	15.0	2.8	11.5	58.0	110.0
	10.0	18	12.5	11.5	21.0	18.0	15.0	15.0	2.9	11.0	57.0	108.0
70°	9.0	18	7.5	9.5	20.5	18.0	18.5	17.0	1.0	14.0	59.5	114.0
	9.5	18	7.5	10.0	21.0	18.0	17.5	17.0	1.0	13.5	59.5	114.0
	10.0	18	7.5	10.5	21.0	18.5	17.0	17.0	1.0	13.0	59.0	113.0
80°	9.0	18	3.5	9.0	20.0	17.5	23.0	18.0	0.3	16.0	63.0	121.0
	9.5	18	3.5	9.5	20.0	17.5	22.0	18.0	0.3	15.5	62.0	119.0
	10.0	18	3.5	10.0	20.0	17.5	22.0	18.0	0.3	14.5	62.0	119.0
90°	9.0	18	0.0	9.0	18.0	18.0	24.0	20.0	0.0	0.0	60.0	120.0
	9.5	18	0.0	9.5	18.0	18.0	23.0	20.0	0.0	0.0	59.0	118.0
	10.0	18	0.0	10.0	18.0	18.0	22.0	20.0	0.0	0.0	58.0	116.0

APPENDIX - TABLE 2 - SMALL VEHICLE PARKING DESIGN STANDARDS

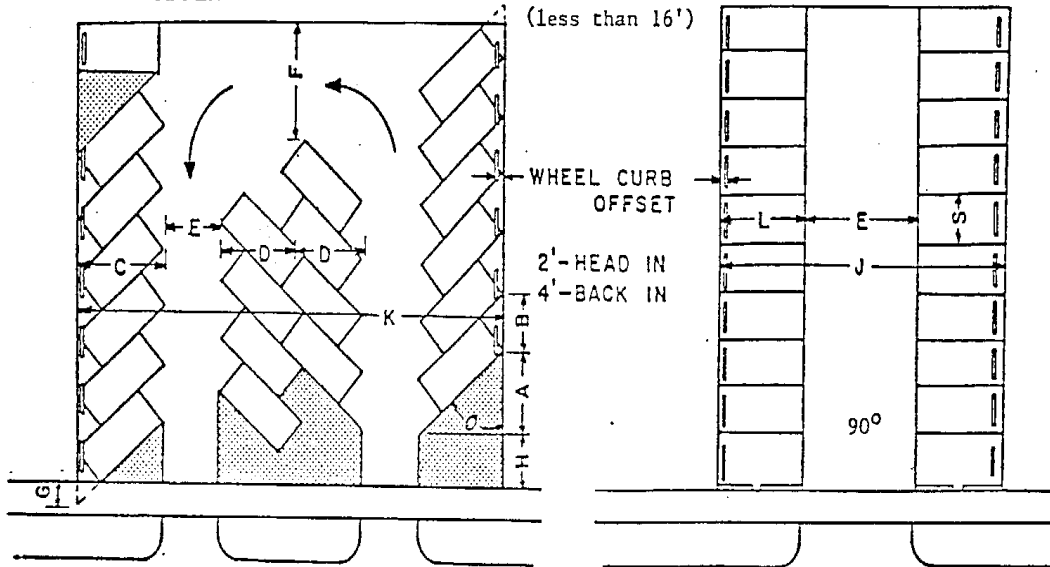


TABLE of DIMENSIONS

	O	S	L	A	B	C	D	E	F	G	H	J	K
0°	7.5	20	0.0	20.0	7.5	7.5	9.0	0.0	0.0	0.0	24.0		
	8.0	21	0.0	21.0	8.0	8.0	8.5	0.0	0.0	0.0	24.5		
	8.5	22	0.0	22.0	8.5	8.5	8.0	0.0	0.0	0.0	25.0		
20°	7.5	16	36.0	22.0	12.0	9.0	9.0	18.2	3.5	33.0	60.0		
	8.0	16	37.5	23.5	12.5	9.0	8.5	19.8	3.5	33.5	60.0		
	8.5	16	39.0	25.0	13.0	9.5	8.5	21.8	3.5	34.5	62.0		
	9.0	16	40.5	26.0	13.0	10.0	8.5	22.8	3.5	34.5	63.0		
9.5	16	42.0	27.0	13.5	10.5	8.0	23.8	3.5	35.0	64.0			
30°	7.5	16	25.0	15.0	14.0	11.0	9.5	11.0	5.5	37.5	69.0		
	8.0	16	25.0	16.0	14.5	11.5	9.0	12.0	5.5	38.0	70.0		
	8.5	16	27.0	17.0	15.0	12.0	8.5	12.5	5.5	38.5	71.0		
	9.0	16	25.0	18.0	15.5	12.5	8.0	13.5	5.5	39.0	71.0		
9.5	16	28.5	19.0	16.0	13.0	8.0	14.3	5.5	40.0	74.0			
40°	7.5	16	19.0	11.5	16.0	13.0	10.0	6.8	8.0	42.0	78.0		
	8.0	16	19.5	12.5	16.0	13.5	10.0	7.3	7.5	42.0	79.0		
	8.5	16	20.0	13.0	16.5	14.0	9.0	7.8	7.5	42.0	79.0		
	9.0	16	20.5	14.0	17.0	14.0	8.5	8.3	7.0	42.5	79.0		
9.5	16	21.0	15.0	17.0	14.5	8.5	8.8	6.5	42.5	80.0			
45°	7.5	16	17.0	10.5	16.5	14.0	10.0	5.2	9.0	43.0	81.0		
	8.0	16	17.0	11.0	17.0	14.0	9.5	5.7	8.5	43.5	81.0		
	8.5	16	17.5	12.0	17.0	14.5	9.5	6.0	8.0	43.5	82.0		
	9.0	16	18.0	13.0	17.5	15.0	8.5	6.4	7.5	43.5	82.0		
9.5	16	18.5	13.5	18.0	15.5	8.0	6.8	7.5	44.0	83.0			
50°	7.5	16	14.5	10.0	17.0	15.0	11.0	3.5	4.5	45.0	86.0		
	8.0	16	15.0	10.5	17.5	15.0	10.5	4.0	4.9	45.5	86.0		
	8.5	16	15.0	11.0	18.0	15.5	10.0	4.5	5.0	46.0	87.0		
	9.0	16	15.5	12.0	18.0	15.5	10.0	4.5	5.5	46.0	87.0		
9.5	16	16.0	12.5	18.5	16.0	9.0	5.0	5.8	46.0	87.0			
60°	7.5	16	10.0	8.5	18.0	15.5	17.0	1.0	2.0	53.0	101.0		
	8.0	16	10.5	9.0	18.0	16.0	16.5	1.0	2.3	52.5	101.0		
	8.5	16	10.5	10.0	18.0	16.5	16.0	1.0	2.5	52.0	101.0		
	9.0	16	11.0	10.5	18.5	16.5	15.5	1.0	2.8	52.0	101.0		
9.5	16	11.0	11.0	18.5	17.0	15.0	1.0	2.8	52.0	101.0			
70°	7.5	16	6.5	8.0	18.0	16.0	18.0	0.5	1.0	54.0	104.0		
	8.0	16	6.5	8.5	18.0	16.5	17.0	0.5	1.0	53.0	103.0		
	8.5	16	6.5	9.0	18.0	16.5	17.0	0.5	1.0	53.0	103.0		
	9.0	16	6.5	9.5	18.5	17.0	16.0	0.5	1.0	53.0	103.0		
9.5	16	6.5	10.0	18.5	17.0	16.0	0.5	1.0	53.0	103.0			
80°	7.5	16	3.0	7.5	18.0	16.5	24.0	0.3	0.3	60.0	117.0		
	8.0	16	3.0	8.0	18.0	16.5	22.0	0.3	0.3	58.0	113.0		
	8.5	16	3.0	8.5	18.0	16.5	21.0	0.3	0.3	57.0	111.0		
	9.0	16	3.0	9.0	18.0	17.0	20.0	0.3	0.3	56.0	110.0		
9.5	16	3.0	9.5	18.0	17.0	19.0	0.3	0.3	55.0	108.0			
90°	7.5	16	0.0	7.5	16.0	16.0	25.0	0.0	0.0	57.0	114.0		
	8.0	16	0.0	8.0	16.0	16.0	23.0	0.0	0.0	55.0	110.0		
	8.5	16	0.0	8.5	16.0	16.0	22.0	0.0	0.0	54.0	108.0		
	9.0	16	0.0	9.0	16.0	16.0	21.0	0.0	0.0	53.0	106.0		
9.5	16	0.0	9.5	16.0	16.0	20.0	0.0	0.0	52.0	104.0			