

§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 Community Development 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 Community Development 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

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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, close, or encumber any public street, highway or part thereof, unless expressly authorized to do so by the Director of Public Works or designee. Application for said permission shall be made in writing to the Department of Public Works and the type plans, etc. of said obstruction, closure, or encroachment shall be submitted to the Director of the Department of Community Development and Inspections, and the Fire and Police Departments for review and recommendation. The purposes for such encroachment, closure, or encumbrance include, but are not limited to, placing of a refuse receptacle or dumpster, private construction equipment, or building materials on a City street or right of way, providing maintenance to a City street or right of way, facilitating the passage of a wide or hazardous transportation load, addressing an emergency, facilitating fire-fighting training exercises, allowing for passage of a police escorted motorcade, or allowing for a civic event to which the general public is encouraged to attend. such as concerts, parades, festivals, athletic events, marches, ceremonies, tournaments, exhibitions, expositions, fairs, markets, or shows.

The Director of Public Works may also order the temporary closing of a City street or public thoroughfare in a residentially zoned district for the purpose of authorizing a street party to be held thereon, through the issuance of a "**Street Party Permit**". The request for such a permit must be in writing, signed by a majority of property owners fronting the street to be closed, filed at least ten (10) days in advance of the event desired to be held, accompanied by a fee to cover the cost of permit issuance and administration. The Common Council will, from time to time, by Resolution, establish the Permit Fee. Should any street party take place prior to the issuance of a

permit, the fee shall increase to five (5) times the amount of the fee established by the Common Council by Resolution. There shall be a limit of two (2) permits per calendar year per street. The Department of Public Works shall inspect the street or public thoroughfare and obtain the recommendations of the Fire and Police Departments prior to permit issuance. The Department of Public Works shall provide barricades to close off the street which will be the subject of the street party. The Director of Public Works may decline to issue said permit for good cause, such as, but not limited to, his/her consideration that the street closing, if permitted, will, or will tend to cause unreasonable traffic congestion, result in a disturbance of the peace, or endanger the public health, safety and welfare. Should the permit be denied, the applicant may appeal the denial to the Committee on Public Works by filing a written notice of appeal with the Department of Public Works within five (5) business days following, but not including, the day of denial. The Director of Public Works, upon issuing a permit, shall send a copy of same to the Fire and Police Departments, notifying the departments of a closed street. The permit shall state the time for which the permit is valid and the Police Department shall check the street during said permit hours to determine if the barricades have in fact been put in place. It shall be the responsibility of the applicant to put in place and maintain said barricades during the hours of the street closing specified on said permit. It shall be unlawful to hold a street party under circumstances where barricades do not completely block off vehicular traffic from the portion of the street being closed by authority of said permit. If the street is barricaded during hours which require vehicles to use their headlights, warning lights or reflectors must be clearly and visibly placed and maintained on said barricades by the permit applicant, and it shall be unlawful to neglect to have operating lights or reflectors on said barricades. Lights and reflectors shall be supplied by the Department of Public Works to the applicants upon request. It shall also be unlawful to place or maintain said barricades on a City street or public thoroughfare at any time or place not specified in said permit application. The applicant shall at all times be personally responsible for complying with this Ordinance and his/her duties are not delegable. It shall further be unlawful for any person to possess a City barricade or use the same for any purpose not authorized by the City.

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

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

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

**3.** No General Contractor shall allow or permit any vehicle to drop, deposit or track mud or dirt from a construction site onto the public street. At the close of each day when operations have ceased, at any construction site, the General Contractor shall be responsible for seeing that the public street is cleaned immediately of all mud or dirt deposited on such street. If the Director of Public Works determines that the General Contractor has not properly cleaned a street for which General Contractor is responsible, the Director shall, without notice, cause such street to be cleaned and the cost thereof, as shown on an itemized bill, shall be collected from said responsible party.

**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 Director of Community Development and Inspections, the proposal will adversely impact the public health or safety of the immediate neighborhood.

**5.041 HONORARY STREET SUBNAMES**