

CHAPTER 5 - PUBLIC WORKS

5.01 ASSESSMENT FOR IMPROVEMENTS

(1) Assessments. The cost or benefit of any public improvements shall be assessed upon the property or properties in accordance with Chapter 66 of the Wisconsin Statutes, Chapter 5 of the Village Ordinances and resolutions by the Village Board establishing policies regarding assessments. Such public improvements include, but are not limited to laying, repairing, improving, and extending any sidewalk, street, curb, gutter, driveway aprons, water mains and sewer mains.

(2) Who May Petition for Improvements. The Village Board, on petition of one or more property owners or on its own motion, may adopt a preliminary resolution declaring its intent to exercise its special assessments powers and a final resolution imposing special assessments. All such resolutions shall be in accordance with Chapter 66 of the Wisconsin Statutes and Chapter 5 of the Village Ordinances.

(3) Policies Determined by Resolution of the Village Board. Policies regarding special assessments for public improvements shall be determined by resolution of the Village Board, as needed, following consultation with the Public Works Committee, Finance Committee and Plan Commission, as appropriate.

(4) Payment and Collection of Special Assessments.

(a) Unless otherwise provided, all special assessments levied shall be paid in full in the year levied in accordance with the payment and collection requirements for general real estate taxes. For example, if special assessments are levied in 1990 and a property owner pays his or her estate taxes in a single payment, the full amount of the 1990 special assessment is due on or before January 31, 1991. Overdue or delinquent special assessments shall be placed on the tax roll and subject to Village Ordinance Section 22.01A, as may be amended.

(b) The Village Board, by resolution and pursuant to, §66.0705 Stats., Stats. §66.0715(2) or Ch. 74 Stats., as may be amended, may provide that special assessments may be paid in installments. The property owner is nevertheless entitled to pay the assessment in full, as described in 5.01(5)(a) above. When the Village Board provides for installment payments, the final resolution authorizing special assessments shall specify the number of installments, when each installment is due, the annual interest accruing on the unpaid balance, and how the property owner must indicate his or her intent to pay in installments. The resolution shall incorporate the Notice of Installment Assessments as required by § 66.0715, Stats., as may be amended. If the property owner fails to make any installment payment when due, the entire assessment amount shall be placed on the tax roll and subject to Village Ordinance Section 22.01 A, as may be amended.

5.02 STREET SUPERINTENDENT

(1) Appointment. A street superintendent shall be appointed in the manner prescribed in section 2.02(1) of this Code. If the Village fails to so appoint a street superintendent, the Director of Public Works would have the authority to carry out all powers and duties assigned herein to the street superintendent.

(2) Term. The street superintendent shall occupy his office for an indefinite period.

(3) Powers and Duties. The street superintendent shall have those powers and duties specified in this Code, and other powers and duties given him by the Village Board from time to time.

5.03 DETERMINATION OF CONDITIONS AND NOTIFICATION

The Village Engineer and/or Director of the Department of Public Works shall inspect sidewalks, curb and gutter and/or driveway aprons and determine whether the sidewalk, curb and gutter and/or driveway apron is in "good" or "poor" condition. The Village shall provide notice of sidewalks, curb and gutter and/or driveways aprons in poor condition by means of a preliminary assessment notice to the address of the property served by the sidewalk, curb and gutter and/or driveway.

5.04 SIDEWALKS

(1) Construction Specifications. Sidewalk construction standards and specifications may be established from time to time by resolution of the Village Board. Any deviation from the approved standards and specifications shall require written approval from the Village Engineer.

(2) Grade. The person(s) and/or contractor(s) installing sidewalk shall confirm the proper grade with the Village Engineer prior to commencing installation. The Village Engineer shall use diligent good faith efforts to provide grade and lines promptly following such request. However, at a minimum, the installer must contact the Village Engineer no fewer than three (3) working days prior to the installer's need for lines and grade.

(3) Replacement/Improvement Policy. At such time as the Village Board requires replacement/improvement of sidewalk, the Village shall pay for replacement of any good sidewalk that is removed and/or replaced. The property owner shall pay for any missing or bad sidewalk that is removed, replaced and/or installed. The Village

Engineer, Director of Public Works or designee, shall determine whether the sidewalk is in good condition.

(4) Policies Determined by Resolution of the Village Board. Policies regarding sidewalk installation shall be determined by resolution of the Village Board, as needed, following consultation with the Public Works Committee, Finance Committee and Plan Commission, as appropriate.

5.05 WIDTH OF STREETS

All street right-of-way in residential areas shall be of a uniform width of four rods (66 feet), or as outlined in Chapter 25, except that new streets connecting to or being extensions of streets having a greater width shall be laid out equal in width to the street to which it is connected or of which it becomes an extension. Terrace ways must be a minimum width of six (6) feet from edge of curb to front edge of sidewalk, unless a smaller terrace way is approved by the Village.

5.06. CURB AND GUTTER.

(1) Replacement/Improvement Policy. At such time as the Village Board requires replacement/improvement of curb and gutter, the Village shall pay for replacement of any good curb and gutter that is removed and/or replaced. The property owner shall pay for any missing or bad curb and gutter that is removed, replaced and/or installed. The Village Engineer, Public Works Director, or designee, shall determine whether existing curb and gutter is in good condition.

If existing streets are reconstructed, new concrete curb and gutter shall also be installed if deemed necessary by Director of Public Works or Village Engineer in accordance with the above paragraph.

5.07 DRIVEWAYS AND APRONS

(1) Driveways Across Sidewalks. Any person who shall construct or maintain any driveway across any sidewalk shall be responsible for the full cost of maintenance and repair of that portion of the sidewalk crossed by the driveway.

(2) Interference With Intersections Prohibited. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village Board for effective traffic control or for highway signs or signals.

(3) Interference With Street. No driveway apron shall extend out into the street, and, under no circumstances, shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches or roadside areas or with any existing

structures on the right of way. When required by the Village Engineer, Director of Public Works or Designee to provide adequate surface water drainage along the street, the property owner shall install any necessary culvert pipe. The expense of obtaining and placing said culvert pipe shall be paid entirely by the property owner. Said pipe shall conform to standards determined by the Director of Public Works after consultation with the Village Engineer.

(4) Permittee Liable for Damage or Injury. The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances. When gutter is removed, the new connection shall be of equivalent acceptable material and restored in a neat, workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a neat workmanlike manner. Any sidewalk areas which are damaged or inadequate by reason of vehicle travel across the sidewalk shall be replaced in accordance with the requirements of this chapter, at the owner's expense.

(5) Installation/Replacement/Improvement Policy for Driveway Aprons in Existing Areas.

(a) **Concrete Driveway Aprons Required.** From July 1, 1994 forward, all new or replacement driveway aprons shall be concrete. All other driveway aprons shall be gradually converted to concrete in accordance with this ordinance. The specifications for concrete driveway aprons shall be as determined by the Director of the Department of Public Works, after consultation with the Village Engineer.

(b) **Policy When Curb And Gutter Is Already Installed.** In areas where curb and gutter is already installed, and the Village has not begun scheduled replacement or improvement of curb and gutter and/or sidewalks, the following policy shall be enforced:

(i) All missing driveway aprons or driveway aprons in poor condition as of July 1, 1994, shall be removed, replaced and/or installed at the owner's expense no later than December 31, 1995.

(ii) All driveway aprons that first become in poor condition after July 1, 1994, shall be removed, replaced and/or installed at the owner's expense no later than 18 months after notice of such condition is given by the Director of the Department of Public Works, or his/her designee.

(iii) Unless requested by 3/4 vote of the Village Board, special assessments shall not be imposed and the special assessments process shall not be available for the costs incurred for driveway aprons

removed, replaced and/or installed pursuant to this subsection (Vill. Ord. §5.07(5)(b)).

(c) **Policy Whenever The Village Requires Installation, Replacement or Improvement of Curb And Gutter And/Or Sidewalk.** Whenever the Village requires installation, replacement or improvement of curb and gutter and/or sidewalk, all missing driveway aprons, driveway aprons that are in poor condition and driveway aprons that are not concrete shall be replaced with concrete driveway aprons. The following policy shall be enforced:

(i) Removal, replacement and/or installation shall occur concurrently with the curb and gutter and/or sidewalk project, as indicated by resolution of the Village Board.

(ii) All missing driveway aprons or driveway aprons, that are not concrete or in good condition, shall be removed, replaced and/or installed at the owner's expense.

(iii) All concrete driveway aprons that are in good condition shall be removed, replaced and/or installed at the Village's expense.

(iv) If the Village's project for installation, replacement or improvement of curb and gutter and/or sidewalk includes the imposition of a special assessment, the cost of the driveway apron may be included in the special assessment in the manner indicated in the preliminary resolution, special assessments report and final resolution that imposes the special assessment for curb and gutter and/or sidewalk.

(d) **Replacement/Improvement Policy.** At such time as the Village Board requires replacement/improvement of driveway aprons, the Village shall pay for replacement of any good driveway apron that is removed and/or replaced. The property owner shall pay for any missing or bad driveway apron that is removed, replaced and/or installed. The Village Engineer, Director of Public Works, or designee, shall determine whether existing the driveway apron is in good condition.

(e) **Review Process For Extension Of Deadlines.** Where special assessments are not available (i.e., driveway aprons installed under Vill. Ord. §5.07(5)(b)) and an owner requires an extension to the December 31, 1994 or the eighteen (18) month deadline imposed, the owner shall submit a timely written request to the Public Works Committee describing the reasons an extension is necessary. The time for submission of a request shall be indicated in any notice given regarding replacement, and failure to file timely shall constitute a waiver of the extension. Review by the Public Works Committee shall be completed in a manner similar to the Special Assessment Deferral Process established by Vill.

Ord. §5.01(6), except that approval by the Village Board shall not be required. Following such review, the Public Works Committee shall permit, deny or specify any conditions applicable to extension of the deadline. The Public Works Committee's decision shall be final and not subject to further review.

Where special assessments are to be imposed (i.e., driveway aprons installed under Vill. Ord. §5.07(5)(c)), the Special Assessment Deferral Process established by Vill. Ord. §5.01(6) shall be the exclusive option available for extension or deferral.

(f) **Penalties For Failure To Perform; Declaration Of Public Nuisance.** In the event that an owner fails to perform as required by this ordinance, and in addition to any penalties imposed under Vill. Ord. §23.04, the Village may declare the driveway apron a public nuisance prohibited by Vill. Ord. §19.01 and require abatement of the nuisance.

(g) **Conflict with Land Division Ordinance.** To the extent that the provisions of this Vill. Ord. §5.07(5) conflict with the Village's Land Division Ordinance, the Land Division Ordinance, Chapter 25, shall control.

5.08 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS

(1) Approval of Proposed Construction. No person shall commence construction on or disturb the surface of the streets, alleys, sidewalks, driveways, easements, public grounds, or any other Village property without first obtaining a permit from the Village. Applications for approval shall be in a form provided by the Village. As a condition of approval, the Village and/or Director of Public Works may require the posting of a bond, in an amount reasonably determined by the Village and from a surety company acceptable to the Village, to ensure the proper construction and timely completion of the approved construction. Within 5 working days of notice, the person obtaining the permit shall reimburse the Village or its utility company for costs incurred by them (including engineer, attorney and/or employees' costs) in inspecting and monitoring such construction. In lieu of a bond, the Village and/or the Director of Public Works will require a construction fee and a permit fee as set by resolution which includes one inspection, or another amount satisfactory to the Village and/or the Director of Public Works, submitted prior to approval of the application. The Village may refund the construction fee in a timely manner not to exceed 18 months to the applicant upon inspection and approval of the completion of the project, by less the costs of reinspection(s) such construction, or Village costs to remediate a problem if owner/contractor fails to make necessary repairs. All related Construction fees, permit fees and reinspection fees shall be set by Resolution of the Village Board.

(2) Removal of Paving. In opening any street or sidewalk, all paving or blasting materials shall be removed with the least possible loss of or injury to surfacing material, and together with 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 the surfaces.

(3) Protection of Public. Every person shall enclose with sufficient barriers each opening, which he may make in the streets or sidewalks of the Village. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against if for damages, as well as costs of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind. No person shall cause any street or sidewalk to be blocked due to such excavation for a period of more than forty-eight (48) hours unless specifically authorized to do so.

(4) Replacing Street and Sidewalk Surface. In opening any street or sidewalk, the paving materials, sand, gravel, earth or other material, moved or penetrated, and all surface monuments or hubs be removed and replace as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material, which in the opinion of the Village Engineer, Director of Public Works or Designee is not suitable for refilling, shall be replaced with approved back fill material.

(5) Emergency Excavations Authorized. In the event of any emergency, any person owning or controlling any sewer, water main, conduit or utility, in or under any street or sidewalk, and his agent or employees make 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.

(6) Village Work Excluded. The provisions of this section shall not apply to excavation work under the direction of the Village Board by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets.

(7) Traffic Control Plan. In certain street and sidewalk openings and excavations, a traffic control plan may be required by the Village Engineer or Director of Public Works. This plan shall be reviewed and approved prior to issuance of a construction permit. Any review fees and actual costs incurred for shall be the responsibility of the applicant.

5.09 OBSTRUCTIONS AND ENCROACHMENTS

(1) Obstructions and Encroachments Prohibited. No person shall encroach upon, in any way obstruct, or encumber any street, alley, sidewalk, public grounds or

land dedicated to public use, or any part thereof unless he shall first obtain a permit from the Village.

(2) Bond Required. Before a permit is granted, the applicant shall execute and deliver to the Village Treasurer a bond as set by Resolution of the Village Board, with such sureties as the Committee on Public Property may approve, conditioned for the faithful performance of this section and undertaking to hold the Village free from all liability by reason of injury to third persons or property and to pay all damages and costs arising from such occupancy.

(3) Limits on Obstructions and Encroachments. No permit shall be granted to occupy more than one-half of the sidewalk and one-third of the roadway. No materials or machinery shall be placed so as to interfere with the passage of water along the gutter or as to interfere with easy access to fire hydrants.

All materials shall be piled compactly and in such manner as to not damage curbs, sidewalks, or streets and upon completion of the work, all materials and machinery shall be promptly removed and all rubbish cleared away, and if not removed, the Village will remove and charge owner/applicant for said removal. Any injury to street or sidewalk shall be promptly repaired under the supervision of the Public Works Director.

(4) Exceptions. The prohibition of ss. (1) shall not apply to the following:

(a) Signs or clocks attached to buildings which project not more than six (6) feet from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, street and alley.

(b) Awnings which do not extend below any point seven (7) feet above the sidewalk.

(c) Public utility encroachments duly authorized by state law or the Village Board.

(d) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three (3) feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two (2) hours.

5.10 SNOW AND ICE REMOVAL

(1) Owner/Occupant's Duty To Remove Snow and Ice. The owner or occupant of any building or lot or part of a lot within the Village of Deerfield shall have a continuing responsibility and duty to remove all snow and ice from any and all sidewalks that border said building or lot. The owner/occupant shall remove said snow and ice at or before the hour of 5:00 p.m. on the day after said snow and ice has fallen or

accumulated. The falling of the snow and/or existence of ice shall serve as notice of the duty to remove same.

Notwithstanding the continuing duty to remove all snow and ice, if ice forms on a sidewalk in such a manner that it cannot be reasonably removed, then the owner/occupant shall keep the sidewalk sprinkled with sand, salt or other suitable substance so as to prevent the ice from being slippery. Ice shall be removed within 24 hours of the time when conditions improve so that it is reasonably possible to remove the ice. The Director of Public Works shall determine whether it is reasonably possible to remove the ice.

No owner/occupant shall shovel, plow or blow snow into or across any Village streets.

(2) Snow and Ice Removal By Village; Charges Imposed. Whenever any owner or occupant fails to remove snow and ice as required by this ordinance, the Director of Public Works, or designee, may cause said snow and ice to be removed.

No additional notice shall be required by the Village prior to causing said removal, it being expressly understood that the falling and accumulation of snow and ice serves as notice to the owner/occupant of his/her duty to remove the snow and ice. As a courtesy and in good faith, the Director of Public Works, or designee, may attempt to notify the owner/occupant that the Village is going to remove the snow and ice and impose a charge for said removal. If the owner/occupant is immediately able to remove the snow and ice, the Village may delay its removal of the same.

The Village shall impose a charge for the Village's removal of snow and ice. The charge shall be per removal and set by resolution, but may be more than the fee in circumstances where unusual time or services are required. The Director of Public Works shall determine when circumstances warrant additional charges. The Director of Public Works shall give notice of charges to the owner/occupant within 30 days of the date that snow and ice removal services were performed.

(3) Penalties for Violations; Penalties In Addition To Village Charges For Removal; Failure To Pay Forfeiture Or Charge May Result In Lien Against Real Estate. Any person violating any provisions of this ordinance shall forfeit not less than \$50.00 for the first violation, plus costs of prosecution, and not more than \$100.00, plus costs of prosecution, for subsequent violations within one year of the most recent previous violation. Each day of violation shall constitute a separate offense.

Any and all forfeitures imposed shall be in addition to any charges that may be imposed for snow or ice removed by the Village under section (2) of this ordinance.

In addition to other remedies for failure to pay forfeitures or charges imposed under this ordinance, failure to pay may result in the forfeiture or charge being levied against the real estate at which the violation occurred. Notice of levy shall be given to

the occupant and the owner, as the owner is listed on the tax rolls. The forfeiture shall then be collected with other taxes, special assessments and charges and, if not paid, shall become a lien against the real estate and may be collected in the same manner as delinquent taxes.

(4) Emergency and General Snow and Ice Control Policy and Procedures. The Department of Public Works and the Public Works Committee shall periodically develop emergency and general snow and ice control policies and procedures for the Village, and recommend consideration and adoption of such policies and procedures by the Village Board. The Emergency and general snow and ice control policy and procedures shall be effective upon, and may be amended by, resolution of the Village Board.

(5) Primary Monitoring and Enforcement Responsibility. The Police Department shall have primary responsibility for monitoring and enforcing this ordinance with respect to owners' and occupants' duty to remove snow and ice, and for advising the Department of Public Works of areas where removal is necessary. The Department of Public Works shall have primary responsibility for monitoring and implementing any emergency or general snow removal and ice control policies and procedures adopted pursuant to this ordinance.

5.11 TREE TRIMMING

(1) Trees To Be Kept Trimmed In Public Areas. Any trees or parts thereof that are located within any public right-of-way, street, alley, sidewalk or place may be pruned and trimmed by the Village of Deerfield so that the lowest branches projecting over the public street or alley will provide a clearance of not less than 14 feet and a clearance of not less than 10 feet over any other public place and so that no dead, broken, or otherwise hazardous branches shall be likely to fall and do injury to the public. Notwithstanding the foregoing, any trees or parts thereof that are located within a utility easement may be pruned and trimmed by the respective utility, rather than the Village of Deerfield.

(2) Hazardous and Infected Trees In Public Areas. Any trees or parts thereof that are located within any public right-of-way, street, alley, sidewalk or place that are found by the Street Superintendent to be infected, hazardous or a nuisance to the public or other trees, shrubs or other plants growing within the Village, or to be injurious to sewers, sidewalks, streets or other public improvements may be trimmed or treated by the Village of Deerfield. Notwithstanding the foregoing, any trees or parts thereof that are located within a utility easement may be trimmed and treated by the respective utility, rather than the Village of Deerfield. Nothing in this section shall apply to trees infected by Dutch Elm disease, which trees shall be governed by the provisions of section 19.06 of this Code.

(3) Hazardous and Infected Trees On Private Property. Any trees or parts thereof that are NOT located within any public right-of-way, street, alley, sidewalk or place that are found by the Street Superintendent to be infected, hazardous or a nuisance to the public or other trees, shrubs or other plants growing within the Village, or to be injurious to sewers, sidewalks, streets or other public improvements shall be trimmed or treated by the owner of the property upon which the tree is growing. The Street Superintendent shall give written notice to the owner to remedy the situation; said notice to be served personally, by U.S. mail or by posting upon the affected tree. Such notice shall specifically state the period of time within which such action must be taken, which shall be within not less than fourteen (14) days nor more than thirty (30) days as determined by the Street Superintendent. If the owner shall fail to remove, treat, or trim said tree within the time limited, the Street Superintendent shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk who shall thereupon enter such cost as a special charge against the property. Special charges may be deferred as provided in Vill. Ord. Sec. 5.01(6). Nothing in this section shall apply to trees infected by Dutch Elm disease, which trees shall be governed by the provisions of section 19.06 of this Code.

5.12 VILLAGE BID PROCEDURES

As a complete alternative to the requirements established by Wis. Stats. §61.54 and § 61.55, the provisions of Wis. Stats. § 62.15 as may be amended, shall hereinafter be applicable to village contracts.

5.13 PENALTY

The penalty for violation of any provisions in this chapter shall be a penalty as provided in 23.04 of this Code. A separate offense shall be deemed committed for each day or part thereof during which a violation occurs or continues.

5.14 FOR FUTURE USE

5.15 UNDERGROUND TRANSMISSION LINES

Unless a waiver is received from the Village Board, transmission lines below ground level, which are constructed or replaced, shall be placed in a common trench. For purposes of this section, the term "transmission lines" shall mean any wire or coaxial cable used for the transmission of electrical energy, radio or television signals, or telephone or other voice and data communication and any equipment appurtenant thereto.

5.16 RIGHTS OF ELECTRIC UTILITY COMPANY

The rights and privileges heretofore excised by the Village of Deerfield Electric Utility to furnish electric service to the Village of Deerfield and to its inhabitants, is

hereby ratified and confirmed, and there is hereby granted to Wisconsin Power and Light Company and its assigns, a public utility corporation organized and existing under and by virtue of the laws of the State of Wisconsin, successor in interest to the Village of Deerfield Electric Utility, the right to construct and operate an electric utility system for the purpose of furnishing electric service to the Village of Deerfield and to its inhabitants, including the right to use and occupy streets, alleys and other public ways with the necessary poles, wires and fixtures, subject to such reasonable rules and regulations as the Village Board of the Village of Deerfield by ordinance may from time to time prescribe, and subject to the provisions of the public utility law of the State of Wisconsin, and all lawful rules and regulations thereunder of the Public Service Commission of Wisconsin.