

Chapter 233
STREETS AND SIDEWALKS

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[HISTORY: Adopted by the Village Board of the Village of Iola as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 97.
Driveways — See Ch. 117.
Licenses and permits — See Ch. 160.

Littering — See Ch. 164.
Solid waste — See Ch. 229.
Water utility — See Ch. 251.

ARTICLE I
Grades
[Adopted 2-12-1996 as Title 4,
Ch. 1, of the 1996 Code]

§ 233-1. Establishment of grades.

- A. Grades to be established. The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board and the same recorded by the Clerk-Treasurer in his or her office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- B. New sidewalk grade. Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Director of Public Works shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established. The cost of furnishing such grade shall be borne by the village.

§ 233-2. Alteration of grade prohibited.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Iola by any means whatsoever unless authorized or instructed to do so by the Director of Public Works. All such alterations of grade shall be recorded in the office of the Director of Public Works.

§ 233-3. Regulation of underground utilities.

- A. Elevation. The grade or elevation of all underground construction shall be three feet below the established grade of the street, alley, park, public property or easement. The three feet shall be measured between the top of the established grade and the top of the underground construction.
- B. Approval of location. The location of any and all such underground construction must have the approval of the Director of Public Works.
- C. Filing plans. Complete plans for any such construction must be filed with and be approved by the Director of Public Works before construction can begin.
- D. Inspection. On request of the Director of Public Works, the utility company must provide opportunity for him or her to check any construction before it may be covered.

- E. Conflict with other utilities. If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction, or of the storm sewer, at the election of the Director of Public Works and in accordance with his or her directions and specifications.
- F. Establishment of grade. At the request of the utility company, the Director of Public Works shall, at the village's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.
- G. Emergency. In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Director of Public Works as soon thereafter as is reasonably possible.
- H. Restoration of surface. In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the village may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of §§ 233-6 and 233-7.
- I. Non-relief from obligations. Compliance with this section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

ARTICLE II

General Provisions

[Adopted 2-12-1996 as Title 4,
Ch. 2, of the 1996 Code]

§ 233-4. Removal of rubbish and dirt from sidewalks.

No owner or occupant shall allow the sidewalk abutting on his or her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Director of Public Works, the Director may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.60(16), Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

§ 233-5. Construction and repair of sidewalks.

- A. Board may order. The Village Board may determine that sidewalks, curb and gutter and suitable street surface material may be constructed, laid, rebuilt or repaired along or upon

any public street, right-of-way or highway within the village. The Village Board may determine or change the width or grade of any street or sidewalk.

B. Owner to construct.

- (1) It shall be the duty of the abutting owner to build, repair, construct and rebuild streets, curb and gutter, or sidewalks along or upon any street, alley or highway in the Village of Iola and to pay the entire cost of construction thereof. Such costs shall include expenditures for engineering, excavations, gravel and driveway approaches.
- (2) Whenever the Village Board shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the village, it shall proceed according to Sections 66.615 and/or 66.22, Wis. Stats. Other projects shall be assessed to abutting property owners pursuant to Section 66.60, Wis. Stats.
- (3) Sidewalks shall be located in such places as designated by the Director of Public Works. No person shall remove any sidewalk without the permission of the Director of Public Works.

C. Sidewalk permit required. No person shall hereafter lay, remove, replace or repair any public sidewalk within the village unless he or she is under contract with the village to do such work or has obtained a permit therefor from the Village Clerk-Treasurer at least three days before work is proposed to be undertaken. A fee as established by resolution of the Village Board shall be charged for such permits.¹

D. Specifications. Streets and curb and gutter shall be constructed in accordance with the specifications adopted by the Village Board and on file with the Director of Public Works unless such ordinance or resolution ordering the construction establishes a specific standard therefor. Specifications for sidewalks are as follows:

- (1) Subgrade. The subgrade shall be prepared by excavating to the line, grade and cross-section as established by the Village Board. Soft and unsuitable material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. When so specified by the Director of Public Works a sub-base of sand, sand and gravel, or other approved porous material shall be placed under the sidewalk. On embankments the subgrade shall extend at least one foot beyond each edge of the sidewalk.
- (2) Material. All sidewalks shall be of concrete composed of five bags per cubic yard of one course construction, and built to the established line and grade. Gravel shall be of good quality and washed. Concrete shall be mixed thoroughly for a minimum of one minute after all materials have been placed in the mixer.
- (3) Forms. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Wood forms shall be surfaced plank of at least two inches thickness except for sharply curved sections. The forms shall be of

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

such depth and design as to permit secure fastening. Forms shall be thoroughly cleaned and oiled before the concrete is placed against them. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. To provide adequate drainage the sidewalk shall slope toward the curb at a minimum rate of $\frac{1}{4}$ inch per foot of width of sidewalk. All joints and edges shall be finished with a $\frac{1}{4}$ inch radius edging.

- (4) Width and thickness. Residential walks shall be five feet in width and not less than four inches thick except within driveway approaches where the minimum thickness shall be six inches; provided that walks in residential areas may be repaired or replaced to a width not less than the existing width on the effective date of this section with prior Board approval. Sidewalks in front of commercial or industrial establishments shall be not less than eight feet in width and five inches in thickness except within driveway approaches where the minimum thickness shall be seven inches.
- (5) Finishing. Before the last finish has set, the sidewalk shall be steel troweled and brushed in transverse direction. Before final finishing, the surface shall be checked with a ten-foot straight edge and any areas departing more than $\frac{1}{8}$ inch from the testing edge shall be corrected by adding or removing concrete while the concrete in the walk is still plastic.
- (6) Jointing. Transverse, full depth, $\frac{1}{2}$ inch thick expansion joints of premolded expansion material shall be located every 40 feet and at the property line, and where the walk intersects another walk, curb line, building or driveway approach, and at buildings, walls, poles and stop boxes, the expansion joint material shall be placed in a neat and workmanlike manner with its upper edge slightly below the finished sidewalk surface. Dummy groove joints for controlled cracking, at least one inch in depth and $\frac{5}{16}$ inch in thickness, shall be placed at intervals of approximately five feet. Steel division plates shall be placed at right angles to the center line of the sidewalk at intervals of not less than 15 feet. All joints shall be at right angles to the direction and grade of the walk. Diagonal joints may be used only when approved by the Director of Public Works.
- (7) Curbing and drying. As soon as any of the concrete work hereinbefore mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "impervious coating," "wet fabric" or "paper" methods. For impervious coating of membrane curing, only those materials meeting requirements of ASTM Specifications C156-44 T, "Method of Test for Efficiency of Materials for Curing Concrete," shall be used. Said specifications are hereby adopted by reference as if fully set forth herein. Walks shall be kept free from all traffic at normal temperatures for 48 hours and in cold weather (below 50° F.) for 96 hours. No concrete shall be poured when the temperature may be expected to fall below 35° F. in any seventy-two-hour period or upon frozen subgrade.

- E. Repair or replacement of defective sidewalks. Pursuant to Sec. 66.615, Wis. Stats., the Village Board may order at any time property owners to repair or remove and place any sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to so repair or remove and replace such sidewalk within 20 days after service of the notice provided in Sec. 66.615(3)(c), Wis. Stats., the Village Board shall repair or construct such sidewalk and the Village Clerk-Treasurer shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the Director of Public Works shall direct the property owner to make repairs within seven days. If the property owner shall fail to repair such sidewalk within the required period, the Village Board shall make the necessary repairs and the Village Clerk-Treasurer shall enter the total cost thereof on the tax roll as a special tax against said parcel.²
- F. Illegal sidewalks. No sidewalk which shall be constructed contrary to the provisions of this section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

§ 233-6. Excavations of streets, alleys, public ways and grounds.

- A. Permit required. No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ground, public sidewalk or village-owned easement within the Village of Iola without a permit therefor from the Director of Public Works.
- B. Application for permit. The application for a permit shall be in writing and signed by the applicant or his or her agent. The applicant shall submit to the Director of Public Works, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The Director of Public Works shall determine if sufficient information is submitted.
- C. Exception. The provisions of this section shall not apply to village excavation work done under the direction of the Director of Public Works.
- D. Validity of permit. Permits shall be valid for a period of 30 days from the date of approval, except as provided for under § 233-7G for pavement replacement.
- E. Renewal of permit. If operations have begun under an approved permit and will continue beyond the thirty-day validation period, the permittee shall apply for a thirty-day permit renewal by written request to the Director of Public Works and payment of a \$10 renewal permit fee. Permit renewals shall be issued at the discretion of the Department of Public Works.
- F. Village standards; fees.

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Village standards. All street work shall be performed in accordance with the current standard specifications for street openings. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
 - (2) Fee. The fee for a street opening permit shall be in the amount established by resolution of the Village Board, plus actual village expenses. Permit fees shall be paid to the Director of Public Works who shall issue his or her receipt therefor.³
- G. Insurance required. A permit shall be issued only upon condition that the applicant submit to the Director of Public Works satisfactory written evidence that the applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one person, \$500,000 for one accident and property damage coverage of not less than \$500,000. The policy shall name the Village of Iola as the third party insured.
- H. Bond.
- (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement that he or she will indemnify and save harmless the Village of Iola and its officers from all liability for accidents and damage caused by any of the work covered by his or her permit, and that he or she will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he or she may make as near as can be to the state and condition in which he or she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Director of Public Works for a period of two years, and that he or she will pay all fines or forfeitures imposed upon him or her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Village Board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the village. Such statement shall also guarantee that, if the village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for two years.
 - (2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the village. Failure to correct deficiencies shall result in a one year revocation of the right to obtain a street opening permit. The village shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus 20% for administration.
 - (3) The person who does such restoration shall be responsible therefor for two years from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the village in an amount determined by the Director of Public Works.
 - (4) Whenever the Director of Public Works shall find that any such work has become defective within two years of the date of completion, he or she shall give written notice thereof to the contractor or to his or her surety stating the defect, the work to be

³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

done, the cost thereof and the period of time deemed by the Director of Public Works to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the village for the cost of doing the work as set forth in the notice.

- (5) An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the village.

§ 233-7. Regulations governing excavations and openings.

- A. Frozen ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15 and May 1 except where it is determined by the Director of Public Works to be an emergency excavation.
- B. Protection of public.
 - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Director of Public Works, and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Director of Public Works, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet from where pipe or conduit has been laid.
 - (2) 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 village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his or her employees of any necessary caution against injury or damage to persons, vehicles or property of any kind.
 - (3) Unless otherwise approved, a minimum of one lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his or her project. In the event traffic is limited to less than one lane in each direction, a flagperson or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
 - (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workers or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Police Department 24 hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in this Subsection B.

- (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least 12 hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Subsection G.

C. Pavement removal.

- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his or her work and in accordance with all applicable codes and regulations.
- (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
- (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
- (4) The Director of Public Works may order the permittee to remove and replace up to one full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.

D. Excavation.

- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
- (2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

E. Backfilling.

- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight inches in their greatest dimension, frozen lumps or other material which in the opinion of the Director of Public Works, is unsuitable.
- (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works, hauled in.

- (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
 - (4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (twelve-inch maximum) shall be uniformly compacted to a dry density of at least 95% of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.
 - (5) All excavations shall be subject to testing by the village. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.
 - (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.
- F. Notice. It shall be the duty of the permittee to notify the Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one business day before such work is to commence. The Director of Public Works shall also be notified at least four hours prior to backfilling and/or restoring the surface.
- G. Pavement replacement.
- (1) Backfill material shall be left below the original surface to allow for five inches of three inch crushed stone and four inches of $\frac{3}{4}$ inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted $\frac{3}{4}$ inch crushed stone.
 - (2) Bituminous pavement shall be placed the full depth of the existing pavement or three inches, whichever is greater. Bituminous pavement shall be placed in a maximum of $1\frac{1}{2}$ inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than $\frac{1}{4}$ inch as measured with a ten-foot straight edge.
 - (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three days. Tie bars shall be installed as directed by the Department of Public Works.

- (4) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of 3½ inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1, except as provided above. Permanent pavements shall be replaced within 60 days of the date of the permit.
- H. Emergency excavation. In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his or her agents and 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, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the Police Department immediately.
- I. Excavation in new streets limited. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Director of Public Works shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five years after the date of improvement or repaving unless, in the opinion of the Director of Public Works, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.

§ 233-8. Obstructions and encroachments.

- A. Obstructions and encroachments prohibited. No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he or she is the owner or occupant, except as provided in Subsections B and C.
- B. Exceptions. The prohibition of Subsection A shall not apply to the following:
- (1) Temporary encroachments or obstructions authorized by permit under § 233-9 of this article pursuant to Sec. 66.045, Wis. Stats.
 - (2) Building materials for the period authorized by the Building Inspector which shall not obstruct more than ½ of the sidewalk or more than ⅓ of the traveled portion of the street and which do not interfere with the flow in the gutters.
 - (3) Excavations and openings permitted under §§ 233-6 and 233-7 of this article.
- C. Issuance of permit.

- (1) The Village Clerk-Treasurer is authorized to issue a permit which allows property owners to place certain fixtures on sidewalks which immediately adjoin their property. In determining if a permit shall be authorized, all of the following requirements must be met:
 - (a) The property must be located in an area zoned for commercial uses.
 - (b) The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
 - (c) The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than five feet at any point.
 - (d) The property owner shall provide the village with proof of liability insurance coverage. The insurance coverage shall be an amount of not less than \$100,000 per occurrence and the policy shall specifically state that it includes coverage for the fixtures located on the village sidewalks. In addition, the village shall be identified as a third-party insured.
 - (e) The fixture(s) shall not be for sale nor shall the fixture(s) be used for the sale of merchandise. Specifically excluded are all forms of vending machines, vendors carts or tables, etc.
 - (f) The property owner whose property adjoins the village sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.
 - (g) The property owner or the occupant of the subject property shall display the approved permit in the window of the building so that it can be seen from the sidewalk.
 - (2) Upon reviewing the permit application if it is determined by the Village Clerk-Treasurer that all of the above requirements have been met, he or she shall issue the permit. Said permit may be revoked by the Village President, Director of Public Works, Village Clerk-Treasurer, Building Inspector or any village law enforcement officer ("village enforcement officials") at any time when one or more of the above requirements are not complied with or if he or she determines that the placement of the fixture(s) endangers the safety of the pedestrians who utilize the sidewalks.
- D. Removal by village for sidewalk obstructions and encroachments. In addition to any other penalty imposed, if any village enforcement official determines that a sidewalk is unlawfully obstructed in violation of this section, he or she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within 24 hours.
- E. Removal by village for obstruction and encroachments located in the village streets, alleys, public grounds or lands dedicated for public use. In addition to any other penalty imposed, if any village enforcement official determines that a village street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he or she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within 24 hours.

F. Failure to remove obstruction.

- (1) If the owner or occupant fails to remove the obstruction within the time period established in Subsection D or E, respectively, any village enforcement official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within 10 calendar days from receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Village Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by the state statutes.
- (2) The failure of the Village Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the village expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this section.

§ 233-9. Street privilege permit.

- A. When required. Permits for the use of the streets, alleys, sidewalks or other public ways or places of the village may be granted to applicants by the Village Clerk-Treasurer for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this section and has obtained a building permit if required by this Code of Ordinances. The Village Clerk-Treasurer shall request advisory recommendations from the Chief of Police, Director of Public Works and Building Inspector prior to issuance of the permit. Village officials may attach conditions to the permit, including proof of liability insurance.
- B. Bond. No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk-Treasurer a bond in an amount determined by the Director of Public Works not exceeding \$20,000, conditioned that the applicant will indemnify and save harmless the village from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the village resulting from such building or moving operations.
- C. Fee. The fee for a street privilege permit shall be in the sum of \$50, plus any actual village costs.⁴
- D. Conditions of occupancy. The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Director of Public Works, Chief of Police or Building Inspector for violation thereof:

⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Such temporary obstruction shall cover not more than $\frac{1}{3}$ of any street or alley.
 - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
 - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four feet in width guarded by a closed fence at least four feet high on both sides may be maintained during the period of occupancy.
 - (4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Chief of Police and Director of Public Works, shall continue during all hours of the day and night.
 - (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
 - (6) Buildings shall be moved only in accordance with the route prescribed by the Director of Public Works and Chief of Police.
 - (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- E. Termination. All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless an earlier termination date is specified thereon at the direction of the Village Clerk-Treasurer.
- F. Removal by village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within 24 hours after such notice from the Director of Public Works, Chief of Police or Building Inspector to do so, it shall be the duty of the Director of Public Works, Chief of Police or Building Inspector to remove such obstruction and make return of the costs and expenses thereof to the Village Clerk-Treasurer who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

§ 233-10. Snow and ice removal.

- A. Removal from sidewalks. The owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within 24 hours from the time the snow ceases to accumulate on said sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians.

- B. Notice and removal of snow from sidewalks. If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection A, the Director of Public Works or village law enforcement officers shall take the following action:
- (1) Hazardous conditions. If the Director of Public Works or village law enforcement officer determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he or she shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed within two hours from the delivery of the notice. In the event the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the Director of Public Works or police officer shall immediately cause the removal of the snow and/or ice. The Director of Public Works or police officer shall send a written notice to the last-known address of the property owner notifying him or her that a hazardous condition existed which required immediately abatement.
 - (2) Nonhazardous conditions. If the owner, occupant or person in charge of the subject parcel or lot fails to remove the snow within the time period established in Subsection A, the Director of Public Works or police officer shall cause the issuance of a written notice to said owner, occupant or person in charge of the subject parcel or lot directing the responsible person (as defined) to remove said snow and ice no later than 12:00 noon of the day following the issuance of said notice. The written notice shall be hand delivered when possible or mailed to the last-known address of the owner of the subject property as identified on the records in the Village Clerk-Treasurer's office.
 - (3) Snow and ice not to encroach. No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five feet of the street right-of-way and the sidewalks exist from the village right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- C. Enforcement. The Director of Public Works, his or her designees and all sworn police officers are hereby authorized and directed to enforce the provisions of this section.
- D. Continued violations. Each twenty-four-hour period where a violation occurs shall constitute a separate offense under this section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this section.
- E. Abatement after notice. Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection B(1) and (2) after receiving a written notice shall result in the Director of Public Works causing the removal of said snow and/or ice.
- F. Expense. An account of the expenses incurred by the village to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot

owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within 10 calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Village Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Section 66.6 15(5), Wis. Stats.

- G. **Penalty.** In addition to the provisions set forth in this section, any person, firm or corporation which violates the provisions of this section shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-17, of this Code of Ordinances.

§ 233-11. Terrace areas.

- A. **Definition.** The definition of "terrace" shall be as defined in § 240-2 of this Code.
- B. **Noxious weeds; paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Village Board or its designee.
- C. **Responsibility to maintain.** Every owner of land in the village whose land abuts a terrace is required to maintain, or have maintained by his or her tenant, the terrace directly abutting such land as provided in this section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

§ 233-12. Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

§ 233-13. Sale or display of merchandise prohibited; special event vending permit.

- A. **Street sales prohibited except by permit.** No person shall display, sell or offer to sell on any street, sidewalk, alley or other public place within the village any goods, wares, foodstuffs or anything of value or service of any kind by putting up a booth or stopping a vehicle or person on foot or in any other manner attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a special event vending permit from the Village Clerk-Treasurer. Such permit shall enable holders to conduct their business in all enumerated areas subject to the limitations of this section. A special event vending permit shall be obtained where the vending is done by a participant in a special event and where such vending is an integral part of the event. However, where the vending is to occur in connection with a village or area-wide promotion of community trade or festival sponsored or coordinated by an organization, the sponsoring organization shall obtain the special event vending permit as agent for its participating members.
- B. **Procedure.**
- (1) Application for a special event vending permit shall be filed with the Village Clerk-Treasurer and shall contain such information as the Village Clerk-Treasurer may require. Licenses shall be signed by the Village Clerk-Treasurer and shall be

conspicuously displayed at the place where such sales are being made. The permit shall set forth the exact days on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. Where a sponsoring organization is the applicant, the applicant shall provide the Village Clerk-Treasurer with a complete list of sponsors and participants at the time of making application.

- (2) Upon receipt of an application for a permit, the Village Clerk-Treasurer shall review the information given on the application for conformity with the provisions of this section. If all the applicable requirements are clearly and unambiguously met in the Village Clerk-Treasurer's opinion, he or she shall approve the permit or approve it conditionally. If the applicable requirements are not clearly and unambiguously met in the Village Clerk-Treasurer's opinion, he or she shall state the matters in doubt in writing to the applicant within three days of the time of making application.
 - (3) The Village Board shall review appeals of the denial of the application by the Village Clerk-Treasurer and may either deny the permit, approve the permit or approve the permit conditionally. Appeals requests shall be filed with the Village Clerk-Treasurer within seven days of the Clerk-Treasurer's decision.
- C. Conditions of license. In addition to any other conditions imposed by the Village Board, all permittees shall fully comply with the following requirements:
- (1) Liability insurance. To hold a valid permit, the vendor must have in force adequate liability insurance. Adequate liability insurance is liability insurance holding the village and its employees and agents harmless and to indemnify and defend the village, its employees and agents against all claims, liability, loss, damage or expense incurred by the village with adequate liability policy limits on account of any damage caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform this condition of the permit, the applicant shall furnish a certificate of insurance evidencing the existence of comprehensive general liability insurance (including contractual liability insurance with the village being named as an additional insured). Adequate liability limits means minimum limits of \$100,000 per occurrence for bodily injury and minimum limits of \$50,000 per occurrence for property damage. The certificate of insurance shall provide 30 days' written notice to the village upon cancellation, or nonrenewal or material change in the policy. Proof of insurance shall be submitted to the Village Clerk-Treasurer a minimum of seven days before the start of the event.
 - (2) Cooperation with law enforcement officials. To protect the public health and safety, the permittee shall coordinate with the Chief of Police the location of all events under the permit. Street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the Chief of Police for his or her review and approval a minimum of seven days before the start of the event.
 - (3) Cleanup. The permittee shall be fully responsible for all necessary cleanup associated with the licensed event.
 - (4) Compliance with other regulations. The permittee shall comply with all applicable state and county regulations governing health and sanitation for food-handling

establishments, if applicable, and any other applicable village regulations, including, but not limited to, regulations pertaining to the issuance of Special Class "B" Fermented Malt Beverage Licenses.

§ 233-14. Requests for improvements.

Requests or petitions by village property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Village Board on or before August 1 to be considered for installation in the following year.

§ 233-15. Raking leaves into streets.

In the interests of public safety, health and general welfare, community appearance and efficiency of operation, it shall be unlawful to rake or place fallen tree leaves or grass clippings onto the pavement or into the gutter of any public street. No person shall permit grass clippings from mower swaths to remain upon sidewalks or on abutting property owned or occupied by him or her.

§ 233-16. Unlawful dumping on streets.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another, without the express permission of the owner of occupant thereof.

§ 233-17. Street numbers.

- A. Buildings to have street numbers. Each principal building in the village shall be assigned an official street number by the Building Inspector.
- B. Street numbers to be displayed. The owner, occupant, or agent in charge of the premises shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him or her the official street number assigned to that building as provided in Subsection A hereof. The physical numbers provided herein shall be not less than 2½ inches high on a background of not less than three inches. Said physical numbers shall be provided by the Village Clerk-Treasurer's office if requested, at cost. Each required number shall be affixed on the particular building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts. For buildings abutting also on a public alley, the street number shall also be affixed in such location that it may be seen in like manner from such alley.

§ 233-18. Obstruction of public ditches.

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt,

sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain.

§ 233-19. Curbs and gutters.

- A. Special assessments and charges. The village may, at any time, construct or have constructed curb and gutter in the village. As a complete alternative to any other methods provided by law, the village may collect for said curb and gutter in the manner and by the procedure provided by Sections 66.60 and/or 66.62, Wis. Stats.
- B. Alternative methods.
- (1) Petition. Any taxpayer and property owner in the village may petition the village for the installation of curb and gutter abutting property owned by said petitioner in said village.
 - (a) Requirements of petition. The petition for the installation of curb and gutter shall state that the petitioner(s) request curb and gutter abutting property owned by said petitioner, describing said property, stating what type is requested, and further said petition shall state that each petitioner individually shall be responsible and liable for, and thereby obligates himself or herself to pay the total costs of installation of said curb and gutter to include surveying and other contingent expenses.
 - (b) Effect of petition. In the event a petition for the installation of curb and gutter is presented to the Village Board, the Board shall have the exclusive discretion to accept or reject the same. The Board may refer said petition, may table it, but in any event they shall act upon the same in some manner within six months of receipt of said petition.
 - (2) Resolution of intent. In the event the village should desire to construct curb and gutter in any area of the village, the Village Board may adopt a resolution of intent to install said curb and gutter and assess the costs thereof to the abutting property owners as provided in Sec. 66.60, Wis. Stats.
- C. Types of curb and gutter. All curbs and gutters shall conform to the construction standards adopted by the Village Board, on file with the Director of Public Works.
- D. Liability for repair thereof. Whenever curb and gutter is installed, all property owners receiving the benefits thereof shall be responsible and liable for all replacements, repairs, damage and maintenance and during any period of construction on the property against which it abuts. Any expense for additional width of road made necessary by blacktop curb and gutter shall be the responsibility of and shall be paid for by the abutting property owner.
- E. Entered on tax rolls. Any and all costs of replacement, repair and maintenance of curb and gutter incurred within two years after installation thereof or damage thereto during construction as provided in Subsection D above, shall be charged to the lot or parcel of land affected thereby pursuant to Sec. 66.60, Wis. Stats.

ARTICLE III
Street Use Permits
[Adopted 2-12-1996 as Title 7,
Ch. 8, of the 1996 Code]

§ 233-20. Purpose.

The streets in possession of the village are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Village Clerk-Treasurer may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this article is enacted to regulate and control the use of streets pursuant to a street use permit to the end that the health, safety and general welfare of the public and the good order of the village can be protected and maintained.

§ 233-21. Application.

A written application for a street use permit by persons or groups desiring the same shall be made on a form provided by the Village Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:

- A. The name, address and telephone number of the applicant or applicants.
- B. If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
- C. The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
- D. The date and duration of time for which the requested use of the street is proposed to occur.
- E. An accurate description of that portion of the street proposed to be used.
- F. The approximate number of persons for whom use of the proposed street area is requested.
- G. The proposed use, described in detail, for which the street use permit is requested.

§ 233-22. Representative at meeting.

The person or representative of the group making application for a street use permit shall be present when the Village Board gives consideration to the granting of said street use permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

§ 233-23. Review by Chief of Police and Director of Public Works.

Before any application for a street use permit is considered by the Village Board, the application shall be reviewed by the Director of Public Works and Chief of Police for their

recommendation as to the affect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.

§ 233-24. Mandatory denial of street use permit.

- A. An application for a street use permit shall be denied if:
 - (1) The proposed street use is primarily for private or commercial gain.
 - (2) The proposed street use would violate any federal or state law or any ordinance of the village.
 - (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
 - (4) The application for a street use permit does not contain the information required above.
 - (5) The application requests a period for the use of the street in excess of six hours.
 - (6) The proposed use could equally be held in a public park or other location.
- B. In addition to the requirement that the application for a street use permit shall be denied, as hereinabove set forth, the Village Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

§ 233-25. Permit fee.⁵

Each application for a street use permit shall be accompanied by a fee in the amount established by resolution of the Village Board.

§ 233-26. Consent to issuance of street use permit.

In addition to the fee required by the previous section, each application for a street use permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six months, shall be accompanied by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than 75% of the residents over 18 years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted in substantially the following form:

PETITION FOR STREET USE PERMIT

We, the undersigned residents of the _____ hundred block of _____ Street in the Village of Iola, hereby consent to the _____ recreational _____

⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

or business use of this street between the hours of and _____ on _____, the _____ day of _____, for the purpose of _____ and do hereby consent to the Village of Iola to grant a street use permit for use of the said portion of said street for said purpose and do hereby agree to abide by such conditions of such use as the Village of Iola shall attach to the granting of the requested street use permit. We further understand that the permit will not be granted for longer than six hours on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is granted.

We designate _____ as the responsible person or persons who shall apply for an application for a street use permit.

§ 233-27. Insurance.

The applicant for a street use permit may be required to indemnify, defend and hold the village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a certificate of comprehensive general liability insurance with the Village of Iola. The applicant may be required to furnish a performance bond prior to being granted the permit.

§ 233-28. Termination of street use permit.

A street use permit for an event in progress may be terminated by the Police Department if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Iola. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.