

Chapter 308

STREETS AND SIDEWALKS

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

ARTICLE I Grades

[Adopted as Title 4, Ch. 1, of the 1987 Village Code]

§ 308-1. 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 Director of Public Works in his 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 of the sidewalk 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.

§ 308-2. Grade alteration prohibited.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Black Creek 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.

§ 308-3. Underground utilities regulations.

- 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 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 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 §§ 308-7 and 308-8.
- I. Nonrelief 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 travel way, 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 Regulations

[Adopted as Title 4, Ch. 2, of the 1987 Village Code]

§ 308-4. Removal of rubbish and dirt from sidewalks.

No owner or occupant shall allow the sidewalk abutting on his 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 of Public Works 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 § 66.0701, Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

§ 308-5. Sidewalk construction or repair.

- A. Owner to construct.
 - (1) It shall be the duty of the abutting owner to build or construct sidewalks along or upon any street, alley or highway in the Village and to pay the entire cost of construction thereof. Sidewalk perpetual maintenance, normal wear and tear upon any street, alley or highway in the Village, the Village shall maintain.
 - (2) Sidewalks shall be located in such places as designated by the Village Board. No person shall remove any sidewalk without the permission of the Director of Public Works.

- B. Permit required. No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village unless he is under contract with the Village to do such work or has obtained a permit therefor from the Director of Public Works at least three days before work is proposed to be undertaken. No fee shall be charged for such permits.
- C. Specifications. Sidewalks shall be constructed in accordance with the specifications for standard sidewalks adopted by the Village Board and on file with the Village Clerk-Treasurer, unless a special ordinance or resolution establishes a different standard therefor. A Village Public Works employee must inspect and approve before it is poured. See below for list of details.
- D. Sidewalk repair or replacement. The Village Board may order property owners to repair or remove and replace any sidewalk which is unsafe, defective or insufficient due to damage caused by the property owner. If the property owner shall fail to so repair or remove and replace such sidewalk within 60 days after service of the notice provided in § 66.0907(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 20 days. If the property owners 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- E. Unsafe sidewalks. The Village Board may at any time, by ordinance or resolution, order any sidewalk which is unsafe, defective or insufficient to be removed and replaced with a sidewalk in accordance with the standard specifications provided for in this section.
- 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.

§ 308-6. Concrete sidewalk installation requirements. [Amended 9-12-2011]

- A. Concrete. Shall be Class A air-entrained.
- B. Grading. The subgrade must be compacted thoroughly and finished to a firm, true surface. Any required fill must be of a suitable material or crushed pit run gravel. All fill must be made in fully-compacted, six-inch layers.
- C. Sidewalk. Concrete walks must be four inches thick, the width specified by Village ordinance or sufficient to match the width of the adjacent walk and of a monolithic construction. Walks to be built across a residential driveway must be six inches thick; walks to be built across a commercial driveway or alley must be seven inches thick.
- D. Forms.

- (1) Forms must be of a height equal to the prescribed thickness of the concrete being poured and must be free of warps and kinks and of sufficient strength and rigidity when staked to resist any pressure or load to which they may be subjected. Metal forms are preferred; wood forms are permitted when pouring in special situations, such as irregular shapes and short sections. Metal forms must have sufficient flat-top surface and be equipped with devices for holding them to proper grade and alignment during consolidation and finishing of the concrete. Form sections shall be tightly joined by locking devices to prevent movement and mortar leakage.
 - (2) Separator plates must be placed at five-foot intervals. Plates must be straight and run the length of the cross-section of the sidewalk upon which they are used.
- E. Size of blocks. For standard walks, sections should be blocked out in five-foot lengths with a blind joint. Blind joint plates should be 1/4 inch by 1/4 inch steel plates set perpendicular to the finished surface at right angles to the forms, should extend entirely across the full width of the concrete and should be securely staked so they remain in proper position during pouring of the concrete. Saw cutting of blind joints will be permitted if prior approval is granted by the DPW.
- F. Construction.
- (1) Sidewalk shall be constructed at the length designated by the Department of Public Works. The space beneath the sidewalk must be excavated three inches below the bottom of the section and the bottom of the trench must be thoroughly compacted, filled with suitable materials and properly consolidated. Fill the trench with road gravel to a depth of three inches and tamp it thoroughly to create a uniform, unyielding surface.
 - (2) Before pouring the concrete, check the forms to confirm line, grade and firmness of setting. Thoroughly moisten the subbase (but not enough to form muddy areas) before pouring concrete to a proper height. The concrete must be consolidated, spaded and struck off flush with the top of the separator plates.
 - (3) When enough time for proper curing has elapsed (this will depend on the weather), work the surface in a circular motion with hand-operated wood floats until you achieve a uniform mortar surface. Trowel the walk smooth immediately after the water glaze/sheen has disappeared. Application of neat cement to the surface is prohibited. When the concrete has set sufficiently to maintain its shape, remove the separator plates and finish all edges with an edging tool with a 1/2 inch radius. After the surface has attained partial set, brush it lightly with a damp broom or whitewash brush. Saw blind joints within 24 hours of the pour.
- G. Expansion joints. Expansion joints must be 1/2 inch wide and placed across the sidewalk perpendicular to the sidewalk edge at intervals not to exceed 100 feet. One-inch expansion joints must be placed at the intersection of sidewalks or ramps with curbing, house walks, buildings, wheelchair ramps, other sidewalks and alley or driveway sections. Joint materials must be premolded bituminous impregnated cane fiberboard similar to flexcell. Cut all joint filler level with the finished surface. When curb intersects sidewalk, extend the expansion joint 1/2 inch above the curb.

- H. Curing. Immediately after finishing is completed, cover the sidewalk surface with waterproof paper for at least 48 hours or apply a water-impermeable coating applied as a fine spray.
- I. Protection. Protect the sidewalk from inclement weather and close it to pedestrian traffic for 48 hours, longer if needed.
- J. Wheelchair. Wheelchair ramps with curved lips on both sides must be provided at all intersections; construction is the same as specified for sidewalk.
- K. Ramps. The side lips should vary in thickness from zero inch to four inches in addition to the normal sidewalk depth and shall be six inches wide with a two inches to three inches radius. The total ramp width shall be five feet.
- L. Backfilling. After the concrete has set sufficiently and forms have been removed, you must backfill the spaces on both sides with suitable material. The finished grade in the terrace should be a straight-line grade between the top of the curb and the inside edge of the sidewalk. The top four inches of the terrace area must be satisfactory black topsoil free of stones and clay chunks (suitable for lawn planting). The property line side of the excavated area should be filled with satisfactory black topsoil and sloped to meet the lawn or grade.

§ 308-7. 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 without a permit therefor from the Director of Public Works.
- B. Standards; fees.
 - (1) Municipal standards. All 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 as set forth in the General Fee Schedule, on file in the Village offices, plus actual Village expenses. Permit fees shall be paid to the Village Clerk-Treasurer, who shall issue his receipt therefor. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- C. 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 \$200,000. The policy shall name the Village as the third-party insured.
- D. Bond.

- (1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement in that he will indemnify and save harmless the Village and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he 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 may make as near as can be to the state and condition in which he 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 will pay all fines imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying 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 one year.
- (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 the amount of \$10,000.
- (4) Whenever the Director of Public Works shall find that any such work has become defective within two years of the date of completion, it shall give written notice thereof to the contractor or to his surety stating the defect, the work to be 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.

§ 308-8. Excavations and openings regulations.

- A. Frozen ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Director of Public Works.
- B. Removal of paving. In any opening or excavation, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing materials and, together with the excavated materials from the opening, shall be placed so as to cause

the least practicable inconvenience to the public and permit free flow of water along gutters.

C. Protection of public.

- (1) Every opening and excavation shall be enclosed with sufficient barriers 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 pots 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 person 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 Director of Public Works in defending any action brought against it for damages, as well as the cost 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.

D. Refilling of opening. In opening any public street, public alley, public sidewalk, public way, public easement, or public ground, the paving materials, sand, gravel and earth or other material moved or penetrated and all surface monuments or hubs must be removed and replaced 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 Director of Public Works, is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed. In refilling the opening, the earth must be puddled or laid in layers not more than six inches in depth and each layer rammed or tamped, or with the permission of the Director of Public Works flushed, to prevent after-settling. When the sides of the trench will not stand perpendicular, sheathing and braces must be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. The edges of the street pavement shall be saw cut or otherwise removed to a neat edge along straight lines at a minimum of six inches from the furthest limits of the excavation. At no time shall the street pavement be permitted to overhang the excavation. The Village may elect to have the opening for any street or sidewalk repaired by the Village, in which case the cost of making such repair and of maintaining it for two years shall be charged to the person making the street opening.

E. Replacement of street surfaces.

- (1) Bituminous pavement street.
 - (a) Permanent repair service. The permanent pavement repair for bituminous paved streets shall be comprised of the greater of three inches, or the thickness equivalent to the existing pavement, of bituminous hot mix pavement meeting Village specifications. The pavement shall be installed on the required thickness of compacted road gravel.
 - (b) Temporary repair surface.

- [1] During the period from November 15 to May 1, or during any other period when bituminous hot mix pavement is typically not available, a temporary pavement repair of cold mix bituminous pavement material may be placed by the permittee if the size of the temporary pavement repair does not exceed 50 square feet. If the size of the temporary pavement repair exceeds 50 square feet, a temporary repair of concrete pavement shall be placed by the permittee. The temporary pavement repair shall be three inches thick or thicker as necessary to support traffic, six bag mix, heated as necessary, placed on the required base of road gravel, and permitted to cure undisturbed until sufficient strength has been reached to permit traffic to utilize the repair. The Director of Public Works may require the use of high early strength concrete where necessary due to traffic or other conditions.
 - [2] The temporary repair surface shall be maintained by the permittee until such time as the permanent hot mix bituminous pavement patch is ordered by the Director of Public Works to be installed.
- (2) Concrete pavement street. On concrete pavement streets, a permanent pavement repair shall be installed by the permittee at all times of the year. The permanent pavement repair shall be of the same thickness and reinforcement as the pavement removed, six bag mix, heated as necessary, placed on the requirement base of road gravel, and permitted to cure undisturbed until sufficient strength has been reached to permit traffic to utilize the repair. The concrete pavement shall be dowelled or keyed, or otherwise tied, to the adjacent concrete pavements. The Director of Public Works may require the use of high early conditions.
- 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 24 hours 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. Validity of permit. Unless the work shall be commenced within 30 days of the issuance of the permit, the permit shall be void, and a new permit must be obtained and an additional fee charged. The Director of Public Works may extend the time limitation for good cause.
- H. Backfilling. It shall be the duty of the permittee to backfill the opening immediately upon completion of the work and to place at least nine inches of road gravel below the bottom of the street pavement, plus temporary road gravel to the street surface if the opening cannot immediately be repaved, unless otherwise approved by the Director of Public Works. It shall be the duty of the permittee to maintain the opening in good condition for a period of six months after the completion of the work or until the surface has been restored. The Director of Public Works shall decide when within said six months the opening is ready for paving if a paving surface is required. If the surface is not restored within a period of 10 days or such longer period as determined by the Director of Public Works, the Village may restore the surface and bill the permittee therefor.

- I. 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 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, shall notify the Police Department immediately and shall not make any permanent repairs without first obtaining an excavation permit.
- J. 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.
- K. Application for permit. The application for a permit shall be in writing and signed by the applicant or his 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 the applicant proposes to use in doing the work. The Director of Public Works shall determine if sufficient information is submitted.
- L. Exception. The provisions of this section shall not apply to excavation work done under the direction of the Director of Public Works by Village employees or contractors performing work under contract with the Village, except that the safety precautions under Subsection C hereof shall be complied with.

§ 308-9. 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 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) Signs or clocks attached to buildings which project no more than six feet from the face of such building and which do not extend below any point 10 feet above the sidewalk, street or alley.

- (2) Awnings now built and extending over any sidewalk at a height of less than seven feet six inches above the sidewalk, street or alley.
- (3) Public utility encroachments duly authorized by state law or by the Village Board.
- (4) Goods, wares, merchandise or fixtures being loaded or unloaded which do not obstruct the width of a sidewalk by more than three feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than three hours.
- (5) Temporary encroachments or obstructions authorized by permit under § 308-10 of this article pursuant to § 66.0425, Wis. Stats.
- (6) Building materials for the period authorized by the Building Inspector which shall not obstruct more than 1/2 of the sidewalk or more than 1/3 of the traveled portion of the street, and which do not interfere with flow in the gutters.
- (7) Excavations and openings permitted under §§ 308-7 and 308-8 of this article.

C. Issuance of permit.

- (1) The Director of Public Works is authorized to issue a permit which allows property owners to place certain fixtures on sidewalks which immediately adjoins 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 the Village's General Commercial District. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
 - (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 in the 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 Director of Public Works that all of the above requirements have been met, he shall issue the said permit. Said permit may be revoked by the Director of Public Works at any time when one or more of the above requirements are not complied with or if he 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 the Director of Public Works determines that a sidewalk is unlawfully obstructed in violation of this section, he shall issue a written notice to the owner or occupant of the premise 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 the Director of Public Works determines that a Village street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he shall issue a written notice to the property owner of the premise which adjoins the obstructed public area directing that the obstruction be removed within 30 days.
- 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, the Director of Public Works 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.

§ 308-10. 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 Director of Public Works 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 subsection and has obtained a building permit if required by this Code of Ordinances.
- 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 \$10,000, 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 as set forth in the General Fee Schedule, on file in the Village offices, plus any actual Village costs. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 for violation thereof:
- (1) Such temporary obstruction shall cover not more than 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 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.
 - (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 Director of Public Works.
- F. Removal by Village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed sidewalk shall refuse or neglect to remove such obstruction within 24 hours after such notice from the Director of Public Works to do so, it shall be the duty of the Director of Public Works 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.

§ 308-11. Snow and ice removal. [Amended 2-2004]

- A. Removal from sidewalks. The owner, occupant, or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk or is within the right-of-way (ROW) of the road and the area that abuts the adjacent property owner 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. **[Amended 10-12-2015]**
- 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 following action will be taken: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (1) Village residents have 24 hours from the time the snow ceases to accumulate on said sidewalk. Failure to do so will result in the snow being removed by the Village employees and a bill in the amount as set forth in the General Fee Schedule, on file in the Village offices, being assessed. Any portion beyond a full hour will be charged the full hourly rate. Each twenty-four-hour period shall be considered a separate offense and billed according to this article. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending action under this section. If payment of charges is not paid by the time of tax roll preparation, the amount due for snow and/or ice removal will be added to the owner's tax statement as a special assessment.
 - (2) Snow and ice not to encroach. No person shall push, shove or in any way deposit any snow or ice onto any public street, alley, sidewalk or public lands dedicated to public use except for parcels or lots located in the General Commercial District 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 curbline. In such instances, the owners, occupants and/or employees of parcels or lots located in the General Commercial District shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- C. Enforcement. The Police Department, upon notice from the Public Works employees or elected officials, will 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 Subsections A and B(1) after receiving a written notice shall result in the Village

employees removing the snow and/or ice and charging the owner as stated in this article.

- 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 into the tax roll as a special tax as provided by § 66.0907(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 § 1-4, General penalty, of Chapter 1, General Provisions, plus the cost of ice and snow removal for each incident. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

§ 308-12. Terrace areas.

- A. Definition. As used in this section, the following terms shall have the meanings indicated:

TERRACE AREA — As defined in § 321-2 of this Code. **[Amended 10-12-2015; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- 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 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.

§ 308-13. Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

§ 308-14. Downspouts and eaves not to drain on sidewalks.

No downspouts from any building shall terminate on or upon, or be in such position that the contents of such spout be cast upon or flow back or over, any public sidewalk in the Village. When the eaves of any building extend over or are so constructed that water may fall therefrom or run back upon any public sidewalk, such eaves shall be so protected by proper spouts or otherwise that no water shall fall or drain therefrom or run back upon or over any public sidewalk. The owner or owners of any building and the officers of any association or corporation owning any building on which any spouts or the eaves thereof shall be

maintained contrary to this section shall be subject to a penalty as provided in § 1-4, General penalty, of this Code.

§ 308-15. 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 Clerk-Treasurer and Village President 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 President 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 President's opinion, he shall make a recommendation on the application to the Village Board. If the applicable requirements are not clearly and unambiguously met in the President's opinion, he 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 the application and the Village President's recommendation and either deny the permit, approve the permit or approve the permit conditionally.
- 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, both locations and special parking provisions, shall be submitted to the Chief of Police for his 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 limiting to, regulations pertaining to the issuance of special Class "B" fermented malt beverage licenses.

§ 308-16. Requests for improvements.

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

§ 308-17. Raking leaves into streets.

In the interest of public safety, health and general welfare, community appearance and efficiency of operation, it shall be unlawful to rake or place fallen tree leaves into the pavement or into the gutter of any public street.

§ 308-18. Curb and gutter. [Amended 9-12-2011]

- 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 § 66.0701, 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 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 it 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 § 66.0703, 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 and damage that are not considered normal wear and tear, or during any period of construction on the property against which it abuts, maintenance of curb and gutter shall be the responsibility of the Village. 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 Village.
- E. Entered on tax rolls. Any and all costs of replacement, repair and maintenance of curb and gutter.

ARTICLE III

Street Use Permits

[Adopted as Title 7, Ch. 8, of the 1987 Village Code]

§ 308-19. 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 Board 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.

§ 308-20. 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.

§ 308-21. 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.

§ 308-22. 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 Chief of Police for his recommendation as to the effect that the temporary closing of the street will have on the public safety in the area during the time the street may be closed. Likewise, before any application is considered by the Village Board, the application shall be reviewed by the Police Chief and Director of Public Works for their recommendation as to the effect that the temporary closing of the street will have on traffic movement in the area during the time the street may be closed.

§ 308-23. Mandatory denial of street use permit.

An application for a street use permit shall be denied if:

- A. The proposed street use is primarily for private or commercial gain.
- B. The proposed street use would violate any federal or state law or any ordinance of the Village.

- C. The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
- D. The application for a street use permit does not contain the information required above.
- E. The application requests a period for the use of the street in excess of six hours.
- F. The proposed use could equally be held in a public park or other location. 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.

§ 308-24. Permit fee and deposit. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

Each application for a street use permit shall be accompanied by a fee as set forth in the General Fee Schedule, on file in the Village offices.

§ 308-25. 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 Black Creek, hereby consent to the _____ recreational or business use of this street between the hours of _____ and _____ on _____, the _____ day of _____, 20____, for the purpose of _____ and do hereby consent to the Village Board of the Village of Black Creek 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 Board of the Village of Black Creek 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.

§ 308-26. 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 Black Creek. The applicant may be required to furnish a performance bond prior to being granted the permit.

§ 308-27. 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. 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.