

Chapter 15

Public Works

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15.01 STREET AND SIDEWALK GRADES

A. Establishment: The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board according to state regulations and kept on file in the office of the Village Clerk/Treasurer. No street, alley or sidewalk shall be worked until the grade is established.

B. 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 Amherst by any means whatsoever unless authorized or instructed to do so by the Village Board. All such alterations of grade shall be kept on file in the office of the Village Clerk/Treasurer.

Effective: 2-17-84
Revised: 7-12-85
Revised: 10-18-86

15.02 SIDEWALK CONSTRUCTION AND REPAIR

Whenever the Public Works Committee with approval of the Village Board shall determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the Village of Amherst, it shall proceed according to Wisconsin State Statutes 66.615. All work shall be done by employees of the Village or contracted for by the Village Board.

A. Specifications: All sidewalks within the Village of Amherst shall be repaired, rebuilt and constructed in accordance with the following specifications:

- (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 place. 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 (1) foot beyond each edge of the sidewalk.

- (2) Material: All sidewalks shall be of air entrained concrete composed of five and one-half (5 1/2) bags per cubic yard for one course construction, and built to the established line and grade.
- (3) Drainage: To provide adequate drainage the sidewalk shall slope toward the curb at a minimum rate of one fourth (1/4) inch per foot of width of sidewalk. All joints and edges shall be finished with one fourth (1/4) inch radius edging tool.
- (4) Width and Thickness: Residential walks shall be a minimum of five (5) feet in width and not less than four (4) inches thick except within driveway approaches where the minimum thickness shall be six (6) 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 Chapter.
Sidewalks in front of commercial or industrial establishments shall be not less than eight (8) feet in width and five (5) inches in thickness except within driveway approaches where the minimum thickness shall be seven (7) inches.
Sidewalks shall be steel troweled and broom finished. Joints shall be every five (5) feet in residential areas and every eight (8) feet in commercial or industrial areas.
- (5) Insurance: Prior to commencement of excavation work, contractors must furnish the Director of Public Works satisfactory written evidence that he has in force and will maintain during the period of excavation, public liability insurance as set by the Village Board.

Effective: 2-17-84

15.03 DRIVEWAYS

No person shall construct or maintain any driveway across any sidewalk or curbing without first obtaining permission from the Village Board.

A. Specifications

- (1) Width: Width measurements will be taken from the hard surface or drive able area of the driveway and does not include landscaping done along the edge of the driveable surface. Driveway width does not signify culvert width. Culvert size shall be determined by the Director of Public Works prior to installation.
 - (a) Single Family Residential: No driveway shall exceed thirty (30) feet in width at the outer or street edge of the sidewalk unless special permission is obtained from the Village Board.
 - (b) One to Two Family Residential: No single driveway shall exceed sixty (60) feet in width at the outer or street edge of the sidewalk unless special permission is obtained from the Village Board. If two separate driveways are planned for due to garage separation, no driveway shall exceed thirty (30) feet in width at the outer street edge of the sidewalk unless special permission is obtained from the Village Board.

- (c) Multifamily Resident: No driveway shall exceed sixty (60) feet in width at the outer or street edge of the sidewalk unless special permission is obtained from the Village Board.
- (d) All other zones: Driveway width will be determined by the Village Board as per a recommendation made by the Village Plan Commission
- (2) Interference with Streets: No driveway apron shall extend out in the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches or roadside areas or with any existing structure on the right-of-way. When required by the Village Board to provide for adequate surface water drainage along the street, the property owner shall provide any necessary culvert pipe at his own expense.
- (3) Number of Approaches Limited: No more than one (1) driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible without undue impairment of safety, convenience and utility of the street by the Village Board. Any two (2) approaches so approved, shall be at least ten (10) feet apart.
- (4) Workmanship and Materials: All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 15.02 A. of this Chapter.
- (5) Permittee Liability: The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances. When curb or gutter is removed, the new connection shall be of equivalent acceptable material and curb returns provided or restored in a neat workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a workmanlike manner. Any sidewalk areas which are damaged or are inadequate by reason of vehicle travel across the sidewalk shall be replaced in accordance with the requirements in Section 15.02 A. of this Chapter.

Effective: 2-17-84

Revised: 6-13-23

15.04 OBSTRUCTIONS AND ENCROACHMENTS

No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds, right of way 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 they are the owner or occupant. Planting or landscaping in the right of way is prohibited except by Village Staff with the exception of a small allowance for a planting bed not to exceed 24 inches in diameter around a mailbox or light pole with plants not typically considered weeds or plants of a woody nature not to exceed 8 inches in height. Expenses to remove any unauthorized plantings or landscaping will be charged back to property owners after a two week notice is given.

A. Exceptions to Obstructions and Encroachments:

- (1) Signs or clocks attached to buildings which project not more than twelve (12) inches from the building's wall surface and shall be placed so that the bottom of the sign or clock is at least eight (8) feet above the sidewalk, street or alley.
- (2) Awnings which do not extend below at any point seven (7) feet above the sidewalk including decorative lighting.
- (3) Public utility encroachments duly authorized by State Law or the Village Board.
- (4) Central Business District Restrictions:
 - a. Merchandise, furniture, or temporary non-electrified signs will be allowed on the sidewalks. Fifty percent (50%) or thirty-six inches (36") per ADA requirements; whichever is greater, must be left open for pedestrian access. The open area must be measured from the curb edge of the sidewalk. In those locations where street light poles, fire hydrants, or Village owned trash containers are in place, no merchandise or obstructions are allowed. Merchandise, furniture, and temporary non electric signs must be in neat and good order as determined by the Public Works Committee. Business owners must allow for convenient snow removal during the winter months and will be responsible for snow and ice removal around any merchandise, furniture and signs. Property owners are responsible for snow removal as per ordinance 15.07 Snow and Ice Removal.
- (5) Other Zoning Districts Restrictions: The following are prohibited in the right of ways in all other zoning districts:
 - a. Sale or storage of merchandise, placement of patron furniture
 - b. Display/storage of personal items such as vehicles, furniture, fixtures, appliances and other objects
 - c. Staging and storage of gravel, sand or any other materials
 - d. Staging and storage of snow from a property not immediately adjacent to the right of way.
- (6) A right of way permit may be applied for by property owners for use of the right of way adjacent to their property for uses not listed above. Permit applications will be reviewed by the Public Works Committee.

B. Removal: In addition to any other penalty imposed, if the owner or occupant of the premises adjoining an unlawfully obstructed right of way or sidewalk shall refuse or neglect to remove such obstruction within twenty four (24) hours after notice to do so, a penalty of \$25 per day will be assessed to the property owner until the time the violation has been corrected. This penalty, if not paid by November 15th of the year when the violation occurred, will be entered on the next annual tax roll by the Village Clerk/Treasurer as a special assessment against the real estate.

Effective: 2-17-84
 Amended: 2-14-12
 Revised: 6-13-23

15.05 STREET USE PERMITS.

A. Regulation by the Village. All municipal streets are intended for the use of the general public, subject to reasonable regulations. However, under appropriate circumstances, the Village Board of Trustees may grant a permit for street use for particular events, provided the

function is not conducive to being held in another location and provided that the health, safety and general welfare of the public can be protected and maintained. In the event that encumbrance of any street, alley or sidewalk with materials necessary for construction or demolition of any building or structure, a permit may be granted by the Director of Public Works.

B. Application for Street Use Permit. A written application for a Street Use Permit by a person or a group of persons desiring the same, shall be made on a form provided by the Clerk/Treasurer and shall be filed with the Clerk/Treasurer thirty (30) days prior to the event proposed for the Street Use Permit. The application shall set forth the following information regarding the proposed street use:

- (1) The name, address and telephone number of the applicant or applicants.
- (2) If the proposed street use is to be conducted for or on behalf of an organization, the name, address and telephone number of the headquarters of the organization and of its officers.
- (3) The name, address and telephone number of the person who will be responsible for the proposed use of the street if the permit is granted, if different from the applicant or applicants.
- (4) The date and hours of the requested use of the street.
- (5) An adequate description of that portion of the street proposed to be used.
- (6) The approximate number of persons expected to attend the event for which the permit is requested.
- (7) The proposed use, described in detail, for which the permit is requested.

C. Liability Insurance. To hold a valid permit, the applicant 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 of Amherst as an additional insured.) Adequate liability insurance limits and other special conditions will be determined and set by the Finance Committee. The Certificate of Insurance shall provide thirty (30) days written notice to the City upon cancellation, or non-renewal or material change in the policy. Proof of insurance shall be submitted to the Village Clerk a minimum of seven (7) days before the start of the event.

D. Review by the Director of Public Works. Before an application is granted, the Director of Public Works shall consider 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. A recommendation shall be made to the Board of Trustees for their consideration.

E. Mandatory Denial of Street Use Permit. An application for a Street Use Permit shall be denied if:

- (1) The proposed street use is primarily for private 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)
 - (6) 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 Tree Permit shall be denied, as hereinabove set forth, the Village Board of Trustees may deny a permit for any other reason or reasons if he or she concludes that the health, safety and general welfare of the public cannot be protected and maintained if the permit is granted.

G. Permit Fee and Deposit. Each application for a Street Use Permit shall be accompanied by a fee as listed in Chapter 7 Finance.

H.

I. Clean up Requirements. The holder of any permit issued under this section shall return the street to the condition that existed prior to the use within twelve (12) hours after the permit expires. The Village will make such restoration in the event that the permit holder fails to do so and shall bill the permit holder for the cost incurred by the Village in performing the work. Failure to make timely payment within a reasonable time after receiving the bill shall constitute an additional ground for refusal to grant the permit holder any other permit in the future.

J. Suspension or Termination of Permit During Event. If during the use of this Permit, the Portage County Sheriff's Department, Emergency Services, Director of Public Works or their designees determine that the health, welfare and safety requires suspension or termination of the Permit, they have the authority to immediately do so.

K. Food Trucks: No person shall engage in the sale of any food from any vehicle on public streets, parks and other public areas except during special functions approved by the Amherst Village Board.

Revised: 5-24-05

Revised: 7-13-21

Revised: 6-13-23

15.06 PUBLIC WORKS CONTRACTS

A. Definitions:

- (1) Village Board: as used in this Subsection, shall mean the Village Board of the Village of Amherst, and may, at the direction of the Village Board, mean the Director of Public Works
- (2) Public Contract: shall mean and include any contract for the construction, execution, repair, remodeling, improvement of any public work, building,

furnishing or supplies, material of any kind whatsoever, proposals for which shall be advertised for bids.

- (3) Subcontractor: means any person whose relationship to the principal contractor is substantially the same as to a part of the work as the latter's relationship is to the Village. A subcontractor takes a distinct part of the work in such a way that he does not contemplate merely personal service.

B. Village Option to do Work Directly: The Village Board may at any time direct that any class of public construction or any part thereof be done directly by the Village, without submitting the same for bids.

C. Public Contracts: When the Village Board directs work to be let to the lowest responsible bidder, the Village Board shall cause to be prepared plans and specifications for the same, containing a description of the work, the materials to be used, and such other matters as will give an intelligent idea of the work required, and shall file the same with the Village Clerk for the inspection of bidders, and shall also prepare a form of contract and bond with sureties required, and furnish a copy of same to all persons desiring to bid on the work.

D. Separation of Contracts: On those public contracts calling for the construction, repair, remodeling or improvement of any public building or structure, other than highway structures and facilities, the Village Board shall separately let (a) plumbing, (b) heating and ventilating, and (c) electrical contracts where such labor and materials are called for.

E. Contract Guaranty: Any contract for doing public work may contain a provision requiring the contractor to keep the work done under such contract in good order or repair for a period not to exceed five (5) years. The inclusion in the contract of any such provision shall not invalidate any special assessment or certificate thereof or tax sale certificate based thereon.

F. Bidder's Proof of Responsibility: Before delivering any form of bid proposals, plans and specifications pertaining thereto to any person intending to submit a direct bid, the Village Board may require such person to submit a full and complete statement sworn to before an officer authorized by law to administer oaths, of financial ability, equipment, experience in the work prescribed in said public contract, and of such other matters as the Village Board may require for the protection and welfare of the public in performance of any public contract. Such statement shall be in writing on a standard form of a questionnaire as adopted by the Village Board. In no event shall such statement be received less than five (5) days prior to the time set for opening of bids. the contents of such statements shall be confidential, except upon the direction of the person furnishing such statement or for necessary used by the Village in qualifying such person, or in cases of action against or by such person or the Village. The Village Board shall evaluate such sworn statements and shall either determine the person submitting such statement to be qualified or unqualified.

G. Advertisement for Bids: After the plans, specifications and form of contract have been prepared, the Village Board shall cause advertising for proposals for doing such work by publishing a Class 2 Notice under Chapter 985, Wisconsin State Statutes.

H. Bidder's Certificate: On all contracts the bidder shall incorporate and make a part of his proposal for the doing of any work or labor or the furnishing of any material in or about any public work or contract of the Village a sworn statement by himself that he has examined and carefully prepared the proposal from the plans and specifications and has checked the same in detail before submitting it to the Village. As a part of the proposal, the bidder shall submit a list of the subcontractors he proposes to contract with, and the class for such listing such subcontractor must first submit his bid in writing to the general contractor at least forty-eight (48) hours prior to the time of the bid closing, which list shall not be added to or altered without the written consent of the Village Board. The proposal of a bidder shall not be invalid if any subcontractor and the class of work to be performed by such subcontractor has been omitted from a proposal, and such omission shall be considered as inadvertent or that the bidder shall perform the work himself.

I. Bid Bond: No bid shall be received unless accompanied by a certified check or a bid bond equal to at least five percent (5%) but not more than ten percent (10%) of the bid, payable to the Village as a guaranty that if his bid is accepted he will execute and file the proper contract and bond within the time limited by the Village. If the successful bidder so files the contract and bond, upon the execution of the contract by the Village the check shall be returned. In case he fails to file such contract and bond amount of the check or bid bond shall be forfeited to the Village as liquidated damages. The notice published shall inform bidders of this requirement.

J. Rejection of Bids: The power to reject any and all bids shall exist unless expressly waived by the Village. The Village Board may reject any and all bids, if in its opinion any combination has been entered into to prevent free competition. The Village Board may, if it be of the opinion that any of the bids are fraudulent, collusive, excessive, or against the best interest of the Village, by resolution adopted by a two-thirds (2/3) majority, reject any and all of the bids received and order the work done by the Village directly under the supervision of the Director of Public Works.

Effective: 2-17-84

15.07 SNOW AND ICE REMOVAL

A. Definitions: As used in this subsection, the following words and phrases have the following definitions:

- (1) Abrasive Material: shall mean sand, sand and salt or salt substitute together, or such other agents, alone or in combination, as may be expressly approved by the Director of Public Works.
- (2) Abutting Owner: shall mean an owner, lessor, occupant, or person in apparent authority over real estate with abuts, adjoins, touches or is contiguous to a sidewalk.
- (3) Sidewalk: shall mean a public sidewalk in the Village of Amherst.
- (4) Snow and Ice: shall include snow, ice, and any slippery condition caused by snow, ice, sleet, freezing rain, and runoff.

B. Snow and Ice Removal: An abutting owner shall cause all abutting sidewalks to be made and kept free from snow and ice.

C. Sprinkling with Abrasive Material: To the extent snow and ice cannot be removed by diligent manual means, the abutting owner shall cause the sidewalk to be sprinkled with an abrasive material in sufficient quantities to preclude slipping or falling.

D. Time Requirements: Compliance hereunder shall be made within twenty-four (24) hours after the first accrual of snow and ice and shall be repeated thereafter as necessary to assure continued compliance.

E. Performance by the Village: In the event of noncompliance by an abutting owner, the Village may cause such removal or sprinkling. In such event, the abutting owner shall be charged and assessed the cost to the Village of such removal or sprinkling. Such cost shall be determined by the Village in a reasonable manner, and shall have a minimum charge. See fee schedule. Such charge shall then be either billed directly to the abutting owner or added as an assessment on the real estate tax bill for such abutting property.

F. Deposit of Ice and Snow Prohibited: No person shall cause snow and ice to be deposited on a street or sidewalk.

G. Penalties: Any person violating the provision of 15.07B, 15.07C and 15.07F above, in addition to all other assessments herein, shall be subject to a Class E forfeiture or incarceration in lieu thereof, as provided in Chapter 2.09 of this Code.

Effective: 2-17-84

Revised: 3-28-85

Revised: 6-13-23

15.08 SOLID WASTE DISPOSAL

A. Mandatory Participation:

- (1) The Village shall be responsible for and shall enter into an agreement with a private contractor to provide for collection and disposal of garbage and recyclables.
- (2) The Village shall collect each month from each household a fee for collection and disposal of garbage and recyclables. The Village shall assess any unpaid amount for disposal and collection as a special charge against the real estate tax bill at the end of each calendar year.

B. Definitions:

- (1) Hazardous Substance: means any substance or combination of substances including any waste of solid, semisolid, liquid or gaseous form which may cause irreversible or incapacitating reversible illness which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics.

- (2) Industrial Wastes: includes liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.
- (3) Garbage: means any discarded materials, resulting from the handling, processing, storage and consumption of food.
- (4) Refuse: means combustible and non-combustible rubbish including, but not limited to, paper, wood, metal, glass, cloth and products thereof; litter and street rubbish, ashes; and lumber, concrete and other debris resulting from the construction or demolition of structures.
- (5) Solid Waste: shall include garbage and refuse.

C. Handling Requirements:

- (1) All households shall be required to participate in garbage disposal and shall be required to separate and recycle newsprint; corrugated cardboard; magazines and catalogs; aluminum; glass bottles and jars; plastic bottles; tin and steel food cans; used motor oil; and car/truck batteries as directed by the Portage County Solid Waste Department
- (2) The Village shall promulgate and make available to each resident such other lists or recyclables, rules, regulations, and requirements necessary to effectuate the intent of this ordinance.
- (3) All lists of recyclables, rules, regulations, and requirements and as amended from time to time shall be incorporated by reference and made a part of this ordinance.

Effective: 2-17-84
 Revised: 2-23-93
 Revised: 5-24-05
 Revised: 6-13-23

15.09 PENALTIES

Unless otherwise stated, any person who violates this Chapter shall be subject to a Class “D” forfeiture, or incarceration in lieu thereof, as provided in Chapter 2.09 of this Code.

Effective: 2-17-84
 Revised: 3-27-84

15.10 PUBLIC UTILITY INSTALLATION, REMOVAL, REPAIR AND MAINTENANCE

A. Purpose: This section is intended to protect property of the Village and its residents, the property and free flow of services of utilities in the Village, and the peace, safety, health and general welfare of the residents of the Village, all under Section 196.58 Wisconsin Statutes.

B. Notice by Utility: Every public utility, as that term is contemplated under Chapter 196 of the Wisconsin Statutes, shall, at the time the utility becomes aware of the need for such work in the Village, notify the Director of Public Works of any and all work, including installation and removal, repair and maintenance of equipment, which shall involve digging, excavation, or otherwise disturb the grade of any lands in the Village.

C. Contents of Notice: Such notice may be verbal unless required in writing by the Director of Public Works and shall contain the following information:

- (1) The location of such planned work.
- (2) The approximate date and time such work is to commence and the projected date of completion.
- (3) Whether the utility has determined the existence of other underground installations of other utilities at the location and has notified such other utilities of such planned work.

D. Return to Grade and Condition: Upon completion of the work, the utility shall restore the work area to grade, shall remove all equipment and unused supplies and debris, and shall leave the work area in as good a condition as existed prior to the work.

Effective: 7-12-85

15.11 PLANTING OF TREES

A. Planting of Trees in Public Parkways: No shade or ornamental tree or shrub shall be planted in any of the public parkways of the Village of Amherst until such tree or shrub and the place where it is to be planted shall first be approved by the Village Forester or Director of Public Works, and a permit granted by the Village Board.

B. Definition of Parkway: A parkway is all non-paved areas within the right of way of a road.

Effective: 2-17-84

Revised: 10-18-86

Revised: 6-13-23

15.12 ADOPTION SECTION 62.15 OF WISCONSIN STATE STATUTES

A. That as a complete alternative to the requirements established by Sections 61.54 and 61.55 Stats, relating to the letting of public contracts, the provisions of Section 62.15 Stats are hereby adopted to govern all public construction, the estimated costs of which exceeds \$5,000.00 within said Village.

B. The authority vested in the Board of Public Works under the provisions of Section 62.15 Stats shall be exercised by the Village Board, or as delegated from time to time by the Village Board.

C. Pursuant to Section 62.15(1) Stats., any class of public construction or any part thereof may be done directly by the Village without submitting the same for bids.

D. Whenever any such public work or part thereof shall be done directly by the Village without submitting the same for bids, the Board of Public Works shall keep an accurate account of the costs thereof, including necessary overhead expenses. Upon completion of such work, the

Board of Public Works shall make a complete report thereof to the Village Board, stating in detail the items of cost and the total cost of doing such work, and the Village Clerk shall publish such report as part of the proceedings of the Village Board. Any member of the Board of Public Works who fails to comply with the provisions of this section shall be liable to a forfeiture of \$50.00 to be recovered as in case of other penalties.

Effective: 3-30-78