

CHAPTER 94: STREETS AND SIDEWALKS

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GENERAL PROVISIONS

§ 94.01 CONSTRUCTION, REPAIR AND MAINTENANCE OF STREETS.

Any construction, repair, or maintenance of a street within the city which is authorized by majority vote of the Common Council may be performed by the city without letting the same out for contract bids, pursuant to Wis. Stats. § 62.15.
(Ord. 83, passed 9-6-78)

§ 94.02 MINIMUM STREET WIDTH.

All streets constructed within the city shall be of a minimum width of 50 feet, pursuant to Wis. Stats. § 236.16(2).
(Ord. 83, passed 9-6-78)

§ 94.03 REMOVAL OF SNOW AND ICE FROM SIDEWALKS.

(A) The owner, occupant, or person in charge of each and every building, lot, or parcel of land fronting or abutting upon a sidewalk shall clear the sidewalk in front of or abutting upon such property of snow and ice to the entire width of the sidewalk.

(B) When ice is so formed on any sidewalk that cannot be so removed, then the person shall keep the same sprinkled with salt, calcium chloride, or other acceptable de-icing materials or sand, ashes, or other abrasive materials until removal is possible.

(C) Snow shall be removed by 12:00 noon of the day following any snowfall.

(D) Any accumulation of ice on any portion of the sidewalk shall be removed or treated by such persons as soon as possible, but in no case later than 12:00 noon of the day following the initial occurrence of the accumulation. Accumulations of ice from any cause without limitations, including but not limited to snow melt, run off, freezing rain, or packed snow shall be covered by this chapter.

(E) No person shall deposit or cause to be deposited any snow or ice taken or removed from the person's premises or elsewhere upon any sidewalk, alley, public place, or street in the city, except snow placed on a street or alley prior to the city crew's removal of the snow from the street or alley. At no time shall any person place any snow in a manner so as to impede traffic or create a hazard.

(F) If snow and ice is not removed or treated as required under this section, the city may, at its option, remove or treat the snow or ice with the cost of the removal being assessed against the property. The cost will be at a minimum charge of \$10 for each 50 foot section of sidewalk or portion thereof. The city may charge the property owner such additional sums as may be actually expended to remove or treat the snow and ice, based on the cost of labor and materials to the city. The City Clerk shall mail a voucher for the amount due, and if the voucher is not paid within 30 days, the Clerk shall cause the bill to be placed on the next real estate taxes of the property owner under Wis. Stats. § 66.0907(5), including subsequent amendments.

(Ord. 128, passed 5-1-89) Penalty, see § 94.99

PRIVATE WALLS AND RESTRICTIVE USES OF STREETS AND ALLEYS

§ 94.15 PRIVATE OWNERS' RESPONSIBILITY FOR RETAINING WALLS.

The retaining wall of adjoining landowners to the streets and alleys shall have the responsibility to erect, maintain, reconstruct, and/or perform all necessary work that may have to be done to the retaining wall to allow free use of the streets and alleys by the public, except all retaining walls built by the city on city property shall be the responsibility of the city unless damage is caused by the act, omission, or negligence of someone other than the city. This shall be done regardless whether the street or alley is open, unopened, restricted, or heavily used for public thoroughfare. Any property owner who fails to so construct or maintain a retaining wall after proper notice by the city to so erect, construct, reconstruct, and/or maintain a retaining wall, the city shall by public bid have such wall erected, constructed, and/or maintained in order that the public may have full use and enjoyment of all such streets and alleys within the city, and the cost of such construction, maintenance, erection, or construction shall be charged back to the property owner and if not paid by the property owner by the next real estate property tax assessment, the cost thereof shall then be added to the property owner's next year's taxes.

(Ord. 105, passed 10-7-91)

§ 94.16 VARIANCE.

No walls shall be built on city property unless the proper variance is granted.

(Ord. 105, passed 10-7-91)

§ 94.17 APPEAL RIGHTS.

(A) This chapter shall not apply to retaining walls constructed on city property by the city.

(B) Any person, organization, or corporation who believes they have a claim against the city, any governmental subdivision, or agency thereof or against any officer, official, agent, or employee of the city or its subdivision or agencies because of a city constructed wall on city property or otherwise shall give notice of any claim or cause of action within 120 days after the happening of the event giving rise to the claim. The notice shall be in writing and shall contain the circumstances of the claim, signed by the party, agent, or attorney, and served upon the city, governmental subdivision, or agency and upon the officer, official, agent, or employee under Wis. Stats. § 801.11.

(C) In addition, within 120 days after the happening of the event giving rise to the claim, any such person shall file a claim with the city containing the address of the claimant and an itemized statement of the relief sought. The claim shall be presented to the City Clerk. The Common Council shall consider the claim and rule on its allowance within 120 days after presentation. Failure of the Common Council to disallow within 120 days after presentation is a disallowance. Notice of disallowance shall be served upon the claimant by registered or certified mail, and the receipt therefore, signed by the claimant or their returned registered letter, shall be proof of service.

(D) Failure to give notice of claim under division (B) or claim under division (C) of this section within 120 days after the happening of the event shall bar any claim against the city.

(E) No action on any claim against the city, its subdivision, or agency or against any officer, official, agent, or employee may be brought after six months from the date of the service of the notice of disallowance. The notice of disallowance shall contain a statement to that effect.

(Ord. 105, passed 10-7-91)

§ 94.18 RESTRICTED USE FOR PUBLIC SAFETY.

No street or alley within the city shall be closed to public use without first following Wisconsin Statutes with public hearing for such closing. However, it is ordained that the city shall have the right to restrict the use of all streets and alleys within the city. The city shall erect restrictive use signs at all streets and alleys that the city decides that the free public use thereof would endanger the public or adjoining landowner and adjoining retaining wall, and on those streets and alleys that are so restricted, any person desiring the use of the street or alley will have to make application for the use by contracting either the City Superintendent or City Police Chief. The City Superintendent and/or Police Chief are hereby authorized to consent to such use after ascertaining the date, hours, and intended use of the alley or street, taking into consideration the wetness of the soil, danger of slide, intended heavy use or light use, and the like of the restricted street or alley. The obtaining of such consent is to be in writing.

(Ord. 105, passed 10-7-91) Penalty, see § 94.99

§ 94.19 RESTRICTED USE AT USERS' RISK.

Any person, company, or corporation that uses a restricted street or alley within the city shall do so at their risk and they shall provide liability insurance to save the city harmless from any and all claims arising out of the use of the restrictive street or alley may bring about. Any damage to the restricted street or alley or the adjoining property owner's land, including retaining wall, shall be at the user's risk and at no risk to the city.

(Ord. 105, passed 10-7-91)

**OBSTRUCTIONS ON CITY SIDEWALKS
AND OTHER PUBLIC WAYS**

**§ 94.35 OBSTRUCTIONS AND
ENCROACHMENTS PROHIBITED.**

No person shall encroach upon or in any way obstruct any street, alley, sidewalk, public grounds, or land dedicated to public use, or any part thereof, (herein "public way") or permit the encroachment or obstruction 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 §§ 94.36 and 94.37.

(Ord. 148, passed 3-29-96)

§ 94.36 EXCEPTIONS.

The prohibition of § 94.35 shall not apply to the following:

(A) Temporary encroachments or obstructions authorized by a minor alteration permit issued by the city pursuant to Wis. Stats. § 66.0425.

(B) Building materials as may be required for construction immediately adjacent to the public way if authorized by the City Superintendent or his or her designee, and which shall not obstruct more than one-half of the sidewalk or more than one-third of the traveled portion of the street and which do not interfere with the flow in the gutters or along the public way.

(C) Awnings which do not extend below any point seven feet above the public way.

(D) Public utility encroachments duly authorized by state law or the city.

(E) Goods, wares, merchandise, or fixtures being loaded or unloaded which do not extend on more than one half of the sidewalk, provided such goods, wares, and the like do not remain thereon for a period of more than 30 minutes.

(F) Garage sales and farmers markets held on a public way other than a street or alley open for travel to motor vehicles, held on no more than four occasions per year, where the items placed on the public way leave unobstructed width of less than four feet at any point and the items are removed during hours of darkness.

(Ord. 148, passed 3-29-96)

**§ 94.37 ISSUANCE OF SIDEWALK
ENCROACHMENT PERMIT.**

(A) The City Clerk is authorized to issue a permit which allows property owners to place certain objects on sidewalks which immediately adjoin their property for a limited period of time. In determining if a permit shall be authorized, all of the following requirements must be met:

(1) The property must be located in an area zoned as a Business District (B) or be a property of a type that is a permitted use in the Business District (B) and located in a residential district (R-1 to R-4) pursuant to a conditional use permit;

(2) The object(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building and shall be of a temporary design;

(3) The placement of the object(s) shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the object(s) reduce the unobstructed sidewalk width to less than four feet at any point;

(4) The permitted use is for a specific limited period of time stated in the permit;

(5) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions;

(6) The obstruction shall not adversely affect the special character of nearby historic buildings or historic districts;

(7) The owner or occupant agrees to at all times protect, indemnify, save and hold harmless the city against and from any claims arising from any accidents or other occurrences on the public way causing injury to any person or persons or property, whomsoever or whatsoever, and arising out of the public way encroachment or obstruction described in the permit.

(B) The property owner or occupant whose property adjoins the city sidewalk shall file the permit application. More than one object to be placed on the same property may be described in one permit application. The permit application will state whether the object will remain in the public way during hours of darkness.

(C) Upon reviewing the permit application if it is determined by the Street Committee that all of the above requirements have been met, the Street Committee shall issue the permit. The permit may be revoked by the Street Committee at any time when one or more of the above requirements are not complied with or if they determine that the placement of the object(s) endangers the safety of the pedestrians who utilize the sidewalks.

(D) No sidewalk encroachment permit shall be issued until the applicant shall file with the City Clerk a certificate of insurance with property and liability insurance coverage with a combined single limit of \$300,000 for damage arising out of the encroachment on the public way.

(E) The fee for a sidewalk encroachment permit shall be the sum of \$10 per year, plus any actual city costs.

(Ord. 148, passed 3-29-96; Am. Ord. 148A, passed 4-4-96)

§ 94.38 REMOVAL BY CITY FOR OBSTRUCTIONS AND ENCROACHMENTS.

(A) In addition to any other penalty imposed, if any city enforcement official determines that a public way is unlawfully obstructed or encroached upon 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. If the obstruction or encroachment poses an immediate risk of harm to any person or property, the city shall have the right to take such action as necessary to abate the risk, including immediate removal of the obstruction or encroachment.

(B) If the owner or occupant fails to remove the obstruction within the time period established in the notice under division (A) of this section, the Street Committee or its designee shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and the expenses shall be charged to and paid by the 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 ten calendar days from receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Wis. Stats. § 66.0627.

(C) The failure of the City Clerk-Treasurer to record the claim or to mail the notice or the failure of the owner to receive the notice shall not affect the right to place the city expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this section.

(Ord. 148, passed 3-29-96)

§ 94.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no specific penalty is set forth shall be punished as provided in § 10.99.

(B) Any person, organization, or corporation violating § 94.03 shall pay a forfeiture in the sum of not more than \$25, plus costs as provided by law.

(C) Any person, company, or corporation using a restricted street or alley within the city without prior

consent shall be fined \$50, plus costs, for the first of such violation and \$50, plus costs, for each succeeding use of a restricted street or alley without consent, and each day shall be considered a use without consent by any such person, company, or corporation.

(D) In addition to any other remedy available to the city in this chapter or otherwise, any person, organization, or corporation violating a provision of §§ 94.35 through 94.38 shall be subject to a forfeiture of not greater than \$200, plus costs, as authorized by law.

(Ord. 105, passed 10-7-91; Ord. 128, passed 5-1-89; Ord. 148, passed 3-29-96)