

## Chapter 390

### STREETS AND SIDEWALKS

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♣ 390-5. Street Excavations and Right-of Way Improvements	♣ 390-11. Street Privilege Permits

{HISTORY: Adopted by the Village Board of the Village of Endeavor at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.}

#### GERNERAL REFERENCES

Bicycles and Play Vehicles – See Ch. 185	Abandoned and Junked Vehicles – See Ch. 421
Numbering of Buildings – See Ch. 203	Vehicles and Traffic – See Ch. 425
Sewers – See Ch. 360	Subdivision of Land – See Ch. 470

#### ♣ 390-1. Establishment of Grade

The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board and the same recorded by the Village Clerk-Treasurer in said Clerk-Treasurer’s office. No street, alley or sidewalk shall be worked until the grade thereof is established

#### ♣ 390-2. Alteration of Grade

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Endeavor by any means whatsoever unless authorized or instructed to do so by the Village Board or the Public Works Committee. All such alterations of grade shall be recorded in the office of the Village Clerk-Treasurer by the Clerk-Treasurer or the officer authorizing the alteration.

#### ♣ 390-3. Special Assessments for Street and Other Improvements

- A. Street grades to be established. It is hereby determined and declared necessary that the street grades be established by resolution prior to the construction of permanent street improvements in the Village

- B. Definitions. For the purposes of this section, the term “street improvement” shall include the following
- (1) Grading work to subgrade of streets
  - (2) Granular base construction
  - (3) Street and surfacing construction
  - (4) Sidewalk construction
  - (5) Storm sewer construction
- C. Proper Drainage. In order to assure proper drainage of properties to the streets, no building permits shall be issued without the provision that the first floor of the proposed building shall be not less than 18 inches above the official street grade at the center of the building. Said drainage should not be directed on any adjoining property owner’s land.
- D. Village to construct. The street improvements indicated in the above Subsection B will be constructed under Village direction, and these improvements will be paid for in part or completely, as provided in other parts of this section, using the special assessment procedures set forth in the § 66.0703, Wis. Stats.<sup>1</sup>
- E. Cost apportionment. The proportion of cost apportionment for the special assessment for street improvement work items under subsection B shall be as follows:
- (1) Fifty percent of the cost of installing curb and gutter shall be assessed to the landowner and fifty percent of said cost shall be paid by the Village of Endeavor
  - (2) Incidental cost for fill, street repair and other related items shall be paid by the Village of Endeavor
  - (3) The cost of installing sidewalks shall be assessed to the property owner based upon the footage of sidewalk crossing said property owner’s land, except that @1 per square foot will be paid by the Village of Endeavor
  - (4) Fifty percent of the cost of any sewer main line extension based on linear-foot cost is to be paid by the Village of Endeavor. The landowner abutting said street by which the sewer main extension is so constructed shall pay fifty percent of the installation thereof based on the linear feet of lot frontage of said landowner.
- F. Costs included in assessment
- (1) The assessable cost, as determined under subsection E, shall include the full cost of the improvements, including labor, materials, equipment, and engineering costs.
  - (2) The costs for all work at intersections shall be based on his proportional share of the frontage of his property to the total assessable frontage
- G. Assessments a lien. All charges established in this section shall be direct liens upon the property improved.

**1. Editor’s Note: See also Ch. 13, Assessments and Charges, of this Code.**

♣ **390-4. Sidewalk Construction and Maintenance; Snow and Ice Removal**

- A. All sidewalks hereafter constructed in the Village of Endeavor shall be constructed in accordance with the provisions of this section. All sidewalks shall be constructed of good quality concrete, a minimum of four inches in thickness, except that where sidewalks cross driveways and alleys, they shall be at least six inches in thickness. Said sidewalks shall be a minimum of four feet wide, and the edge of said sidewalk shall be laid along the right-of-way of the landowner's property line and shall be within the public right-of-way conforming to existing sidewalks.
- B. No person, or firm or corporation shall construct any sidewalk in the Village of Endeavor until he or it shall first obtain a permit to do so from the Village Board of the Village of Endeavor. Prior to the issuance of said permit, the Village Board shall establish the width and grade of said sidewalk, its location with reference to the street, and such other specifications as may be necessary.
- C. Sidewalk permits may be issued upon application to the Village Board by the property owner, or in cases where the Village Board determines that a particular sidewalk is necessary for the public health, safety and general welfare of the Village, said permit may be issued by the Village Board at its own direction upon 90 days' notice to said property owner.
- D. The Village shall remove any old sidewalk it deems necessary and provide the proper subgrade. The Village will further stake said sidewalk dimensions, and all sidewalks shall be constructed according to the grade and location so established by the Village.
- E. Sidewalks constructed by a property owner shall be constructed within 30 days from issuance of the sidewalk permit. In the event of failure of the property owner to construct the sidewalk within 30 days of issuance of the permit, said sidewalk will be constructed by the Village of Endeavor and assessed to the abutting property as a special assessment.
- F. No sidewalk permits shall be issued by the Village during periods that there is frost in the ground.
- G. Upon completion of construction performed in accordance with this section, the Village of Endeavor shall reimburse to the property owner an amount as set by the Village Board per square foot of new sidewalk constructed according to specification.
- H. All sidewalks in the Village shall be maintained in good order and repair by the property owner upon whose land said sidewalk abuts. In the event that the Village Board determines that repairs are necessary, it shall so notify the property owner and the property owner shall have 10 days in which to make said repairs. In the event that said property owner shall fail to so repair such sidewalk within 10 days, the Village may make said repairs and charge the cost thereof to the property owner as a special assessment.

- I. All sidewalks in the Village shall be kept free of debris and obstacles by the property owner upon whose land said sidewalk abuts.
- J. The owners, occupant or person in charge of each and every building or structure or unoccupied lot in the Village of Endeavor fronting or abutting any street shall clean or cause to be cleaned the sidewalk in front of or adjoining each such home, building or unoccupied lot as the case may be, of snow and ice to the width of such sidewalk within 24 hours after snow shall cease to fall, and shall cause the same to be kept clear of snow and ice, provided that when ice has formed on any sidewalk so that it cannot be immediately removed, the persons herein referred to shall keep same sprinkled with salt, sawdust or sand.

(1) Village's option to clear sidewalks. In any case where the owner, occupant or person in charge of any building or structure or unoccupied lot shall fail to clear his or her respective sidewalks of snow and ice as set forth above, then and in that event the Village may elect to clear said sidewalks as follows

- a. Written notice shall be personally served, delivered or mailed by certified mail, informing said person of his or her failure to clear said sidewalk, the Village's intention to clear the same, and the potential costs thereof, no less than 24 hours prior to the Village's clearing said sidewalk
- b. The Village shall clear or cause to be cleared all snow and ice from the subject sidewalk and shall charge the expenses of so doing at the rate set by the Village Board. The charges shall be set forth in a statement to the Village Clerk-Treasurer who, in turn, shall mail the same to the owner, occupant, or person in charge of the subject premises. If said statement is not paid in full within 30 days thereafter, the statement shall be reported to the Village Clerk-Treasurer, who shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under § 66.0907(3)(f), Wis. Stats.

(2) Penalty. As an alternative to a remedy provided in Subsection (1) above, or in addition thereto, the Village may impose a penalty for any violation of any provision of this section, provided that the person who violates any of the provisions in this section shall forfeit and pay to the Village of Endeavor not less than \$25 nor more than \$100, together with the costs of prosecution of each offense. A separate offense shall be deemed committed during each day (24 hours) or part thereof during which a violation occurs or continues.

- K. No person shall block to pedestrians any sidewalk in the Village without first having obtained the consent of the Chief of Police or his/her designee. Said Chief of Police or his/her designee shall permit the blocking of sidewalks only for reasonable periods of time for appropriate purposes such as tree removal, repairs, vehicle unloading, etc.
- L. Any person who shall construct or replace any sidewalk within the Village without a permit obtained in compliance with this section or who shall violate the provisions of any subsection herein shall be subject to the penalty provided in Chapter 1, § 1-4 of this Code in addition to the cost of the action.

♣ **390-5. Street Excavations and Right-of-Way improvements**

- A. Insurance and map. There shall be a fee as set by the Village Board for any right-of-way or street excavation permits. In addition, a deposit shall be required as established from time to time by the Village Board for the excavation of any street, alley, public property or public right-of-way which is being cut, trenched into, excavated, or improved by any person or public utility. Said improvement shall be proposed to the Village Clerk-Treasurer as evidence on a map indicating the intended construction, and bonding insurance may be required by the Village.
- B. Insurance Required. A permit shall be issued only upon condition that the applicant submit to the Public Works Committee 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 \$100,000 per one person and \$300,000 for one accident and property damage coverage of not less than \$50,000.
- C. Excavation in new streets limited. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street or replacement of any sidewalk or curb and gutter, 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, a Village representative shall notify in writing each person, utility, Village department or other agency owning or controlling any sewer, conduit or other utility in or under the street or any real property abutting the street. All such excavation must be completed within 30 days of notification. Materials being replaced in said excavations shall meet prior approval of the Public Works Committee before any such materials may be placed. An on-site inspection is required from the Public Works Committee before said work is deemed complete.
  - (1) After such permanent improvement or repaving, no excavation permit shall be issued to open, cut, or disturb the street, sidewalk, or curb and gutter for a period of five years after the date of improvement or repaving, unless in the opinion of the Public Works Committee an emergency exists which makes it absolutely essential that the permit be issued.
  - (2) In emergency excavations performed during the winter months when it is not possible to replace the removed pavement or like material, the

excavation shall be temporarily resurfaced with a minimum of 3 ½ inches of cold mix bituminous material. The temporary wearing surface shall be compacted and rolled smooth. The temporary wearing surface shall be removed and replaced with materials approved by the Public Works Committee by no later than the following June 1. IN all other times of the year the permanent wearing surface, no less than the permanent structure that currently exists, shall be replaced within 60 days of the date a permit was issued and/or excavation is complete. If these requirements are not met the Village shall complete said work and the expense of said work shall be charged to the person(s) responsible for the original excavation.

- (3) Every effort shall be made to place gas, electric, telephone, and television cable in the street parkways and terraces. Sewer lateral connections shall be installed to all vacant lots which meet the Village's current zoning ordinances. The Village shall include the cost of said lateral connection as a special assessment to the real property for which the lateral is installed.

♣ **390-6. Regulations Governing Excavations and Openings.**

- A. Deposit. No permit shall be issued unless and until the applicant therefor has deposited with the Village Clerk-Treasurer a cash deposit in the sum of \$40 if no pavement is involved and \$500 if the excavation is in a paved area to insure the proper restoration of the ground or laying of pavement, if any. From this deposit shall be deducted the expenses to the Village of relaying the surface of the ground or pavement and of making the refill if this is done by the Village or at its expense, and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and surface or pavement is restored.
- B. Manner of excavating. It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground, and in excavations the excavation shall not be anywhere below the surface of any portion which extends beyond the opening at the surface. No injury shall be done to any pipes, cables or conduits in the making of such excavation or tunnel before such pipes, cables or conduits shall be disturbed. No unnecessary damage or injury shall be done to any tree shrub or the roots thereof.
- C. Sidewalks. If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users. The temporary sidewalk is subject to inspection by the Public Works Committee and shall not be open for use until approved by him.
- D. Restoring surface and utilities. Any person, firm or corporation (the excavator or general contractor) making any excavation or tunnel in or under any public street, alley or other public place in the Village shall restore the surface to its original condition. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. Any opening in a paved or improved portion of a street shall be repaired and the surface relaid by the excavator or general contractor, in compliance with the ordinances of the Village and under supervision of the Public Works Committee. If the excavation is made between October 1 and April 15, the excavation must be made safe for travel

within 15 days and restoration must be completed by May 15. If the excavation is made between April 15 and September 30, restoration must be completed within 30 days of the date of the excavation. Any damage caused to underground utilities in the course of the excavation or refilling shall be repaired at the expense of the excavator or general contractor within 24 hours after the damage occurs.

- E. Supervision. The Public Works Committee shall from time to time inspect or cause to be inspected all excavations and tunnels being made in or under any public street, alley or other public place in the Village to see to the enforcement of the provisions of this section. Notice shall be given to him at least 10 hours before the work of refilling any such tunnel or excavation commences.
- F. Tunneling required. It shall be unlawful to make any excavation in any portion of a street or sidewalk in the Village which is paved with a concrete or asphalt paving. Where necessary, and where a proper permit has been secured, tunnels may be driven or excavated under any such pavement, provided that upon completion of the work involved the tunnel shall be backfilled with compacted sand.
- G. Protective measures and routing of traffic. It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain barriers and warning devices necessary for the safety of the general public. Barriers, warning signs, lights, etc., shall conform to the requirements of all applicable Village ordinances. Warning lights shall be flares, torches, lanterns, electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Torches shall be open wick or flame flares or bombs generally used in connection with roadway repair or construction and operating on kerosene or similar fluid.
- H. Protection of traffic. The permittee shall maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than 300 feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway of at least  $\frac{1}{2}$  of the sidewalk width shall be maintained along such sidewalk line.
- I. 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 Public Works committee.
- J. 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.
- K. Protection of public. Every opening and excavation shall be enclosed with sufficient barriers. Sufficient warning lights shall be kept on from sunset to sunrise. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavation materials. No open flame warning pots shall be used. Except by special permission from the Pulic Works Committee, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet where pipe or conduit has

been laid. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his agents or employees. All necessary precautions shall be taken to guard the public effectually from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including cost incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicle or property of any kind.

- L. Replacing street surface. 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 or replaced as nearly as possible in their original condition or position and in the same relation to the remainder as before. Any excavated material which in the opinion of the Public Works committee is not suitable for refilling shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street or sidewalk in perfect repair, the same to be so maintained for a period for one year. In refilling the opening, the earth must be puddled or laid in layers not more than six inches in depth and each layer rammed, tamped or flushed 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 Village may elect to have the Village make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintain it for one year shall be charged to the person making the street opening.
- M. Emergency excavation. In the event of any emergency any person, firm or corporation owning or controlling any sewer main, gas main, water main, conduit or other utility in or under any public street, alley, easement, way or ground and his or its 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.
- N. Application requirements. The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the Public Works Committee, 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 Public Works Committee shall determine if sufficient information is submitted.
- O. Village work excluded. The provisions of this section shall not apply to exaction work done under the direction of the Public Works Committee by Village employees or contractors performing work under the contract with the Village, except that the safety precautions under Subsection K hereof shall be complied with.

### **390-7. 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 Subsection B.
- B. Exceptions. The prohibition of Subsection A shall not apply to the following:
  - (i) Signs or clocks attached to building 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.
  - (ii) Awnings which do not extend below any point seven feet above the sidewalk, street or alley.
  - (iii) Public utility encroachments duly authorized by state law or by the Village Board.
  - (iv) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on a sidewalk, provided that such goods, wares, etc., do not remain thereon for more than three hours.
  - (v) Temporary encroachments or obstructions authorized by permit under §390-11.
  - (vi) Excavations and opening permitted under §§390-5 and 390-6.
- C. 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 with 24 hours after notice from the Public Works Committee to do so, it shall be the duty of the Public Works Committee to remove such obstruction and make return of the cost and expense 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.

**390-8. Removal of rubbish and dirt.**

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 Village Board, the Board may cause the same to be done and report the cost thereof the Village Clerk-Treasurer, who shall spread the cost on the tax roll as a special tax against the premises, or such cost may be recovered in an action against the owner or occupant.

**390-9. Burning in the streets.**

No person shall burn any leaves, trash, rubbish or other materials within the traveled portion of a roadway.

**390-10. Terrace area.**

- A. Definition. "Terrace" shall be defined as that portion of right-of-way lying between sidewalk and street or curb.

- 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 on a terrace free and clear of snow.

**390-11. Street privilege permits.**

- 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 Public Works Committee 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 that such applicant has complied with the other requirements of this section and has obtained a building permit if required by this code.
- 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 Public Works Committee, conditioned that the applicant will indemnify and save harmless the Village of Endeavor from all liability for accidents or damage caused by reason of 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 by the Village Board.
- 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 Public Works Committee for violation thereof:
  - i. Such temporary obstruction shall cover not more than 1/3 of any street or alley.
  - ii. Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - iii. 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.
  - iv. The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Public Works Committee, shall continue during all hours of the day and night.
  - v. 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.
  - vi. Building shall be moved only in accordance with the route prescribed by the Public Works Committee.
  - vii. 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 Public Works Committee.

*The foregoing ordinance was duly adopted by the Village Board of the Village of Endeavor, Marquette County, Wisconsin at a meeting held on September 8, 2015 by a vote of \_\_\_\_ in favor, \_\_\_\_ opposed, and \_\_\_\_ not voting.*

\_\_\_\_\_  
Larry LaSure, Village President

Attest to:

\_\_\_\_\_  
Laura Myers, Village Clerk/Treasurer

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