

**CHAPTER 115  
STREET CONSTRUCTION AND WORK ON PUBLIC WAYS**

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115-18	Correction of Improper Construction		<b>115-1. Definitions.</b> In this chapter:
115-19	Plans of Structures or Facilities Within Public Ways		<b>1.</b> ALLEY means a public thorough- fare shown on a plat, which is primarily intended to provide secondary access to a lot, block, or parcel of land fronting upon a street and not for the use of through traffic. It includes the pavement and the area extending to the lot line on either side.
115-20	Submission of Plans		<b>2.</b> BLOCK means the distance along a street lying between center lines of street intersection.
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115-22	Utilities to Change Structures Upon Request		<b>4.</b> EXCAVATION means any opening, hole or trench made in any public way or public place.
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facilities, water main and related facilities, utility pole, light pole, cable, conduit, alarm systems, hollow walk, other public and private appurtenances, and any other facility without limitation by reason of enumeration or any combination of the aforementioned installed under, upon, or over any public way or public place.

**6.** LOT LINE means the outer edge of the municipal easement or dedicated area.

**7.** PAVEMENT means the constructed surface of any public way or public place regardless of the type of materials utilized in its construction.

**8.** PEDESTRIAN WAY means the public thoroughfare dedicated or reserved for pedestrian purposes including the sidewalk pavement and the area extending to the lot line on each side.

**9.** PERSON means any natural person or persons, firm or corporation.

**10.** PUBLIC PLACE means city property under the jurisdiction of the common council, owned by or dedicated or reserved for the city for public purposes.

**11.** PUBLIC UTILITY means and embraces every corporation, company, individual, association and their lessees, trustees or receivers appointed by any court that may own, operate, manage or control any plant or equipment whatsoever within the city for the production, transmission, delivery or furnishing of heat, light, water or power or for providing or furnishing telephone, telegraph, radio, television or cable service, either directly or indirectly, to or for the public.

**12.** PUBLIC WAY means any public thoroughfare dedicated, condemned, acquired, or created in accordance with the statutes for street, alley or pedestrian way purposes.

**13.** ROADWAY means that portion of the street intended for vehicular traffic. Where curbs exist, it is that portion of the street between the faces of the curbs.

**14.** SIDEWALK means the paved portion of the sidewalk area or pedestrian way for through pedestrian traffic.

**15.** SIDEWALK AREA means that portion of the street located between the street lot line and the roadway. Where there are curbs, it shall be that portion of the street between the lot line and the face of the curb.

**16.** STREET means every highway within the corporate limits of the city except

alleys. It shall be the area between the lot lines including roadway pavement, curb and gutter and sidewalk.

**17.** TRAFFIC CALMING INSTALLATION means any device, object or material, other than a traffic sign, signal or other traffic control device as defined in s. 349.065, Wis. Stats., constructed or placed within a public way for the purpose of encouraging slower traffic or enhancing pedestrian safety.

**115-2. Commissioner to Prescribe Rules.** The commissioner is authorized and empowered to make and prescribe such additional specifications, rules and regulations to implement this chapter not inconsistent with the provisions of this chapter, as he may deem necessary for the public interest in all public places and public ways. A copy of such specifications, rules and regulations shall be kept on file, available to the public, in the office of the commissioner.

### **115-3. Permits for Excavation and/or Installations in Public Ways and Public Places.**

**1.** No person shall make any excavation and/or installation in any public way or public place for any purpose whatsoever unless he or she possesses a currently-valid permit therefor from the commissioner, except where required by contract with the city for constructing, paving, or reconstructing a street. City forces charged with the duty of repairing or reconstructing streets and city forces charged with the duty of installing, replacing or removing street lighting, alarm systems or traffic control signal devices, poles or standards are not required to secure a permit, except that where electrical conduit is laid in the public way, a permit shall be taken out. If any work for which a permit has been issued has not been started, resumed or completed by the expiration date of the permit, the permit shall lapse and be void, and no work shall be begun, resumed or completed until a new permit is obtained and the appropriate fee paid.

**2.** The director of the department of public works infrastructure services division, or any official or employee of the division of infrastructure services that the director may designate, may issue a citation for any violation of this section pursuant to s. 50-25.

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**115-3.5. When Permits Not Issued.** Except in an extreme emergency, the commissioner shall not issue a permit for a street excavation which would interfere with traffic that has been rerouted.

**115-4. Granting of Permits. 1.** Upon application for a permit for excavation or installation, or both, in a public way or public place and payment of the fees and deposits required in s. 115-7, the commissioner may, where not inconsistent with any other ordinance, issue a permit to excavate or disturb the surface of any public way or place.

**2.** The permit shall state the name of the applicant, the nature, purpose, and location of the excavation or installation, the amount of the permit and inspection fees, and the number of days for which the permit shall remain in force.

**3.** All permits shall be consecutively numbered and shall be made out in quadruplicate, one copy to be given to the permittee, 2 copies to be delivered to the director of the department of public works infrastructure services division, and one copy to remain on file in the office of the commissioner.

**4.** Permit applications for installations in public ways or public places shall be in the form and contain such additional information as required by the commissioner.

**5.** Whenever a permit for excavation or installation in a public way or public place is granted, the permit holder shall, as a condition of permit issuance, be required to serve written notice of the impending excavation or installation work to each occupant of abutting private property at least 48 hours prior to commencement of work if the excavation or installation will be in progress for more than 96 hours, impede or obstruct access to abutting private property, or result in interruption of utility service to abutting private property. The commissioner shall provide similar notice to the common council member in whose district the excavation or installation work will occur. The notice shall include a name and telephone number of a person who is affiliated with the permit holder and directly responsible for and knowledgeable of the work to be performed. No notification shall be required for emergency public way excavation, such as but not limited to an excavation relating to a gas, water or steam leak or an electrical outage, or for an

excavation carried out in conjunction with minor maintenance activities, such as but not limited to manhole adjustments, hydrant or valve repairs or work on utility services to individual properties.

**115-4.5. Permit Fees and Refunds. 1. PERMIT FEES.** a. Fees for permits issued under this chapter are as specified in ch. 81.

b. Agencies of the U.S. government and the state of Wisconsin are exempt from paying fees for permits issued under this chapter.

**2. DOUBLE FEES.** a. Where work is started, or the public way occupied without first obtaining a permit as required by this chapter, the fees specified shall be doubled, but the payment of such double fees shall not relieve any person from fully complying with all the regulations of this chapter in the execution of the work, nor from any other penalties prescribed in this chapter.

b. If application for a permit is sent through the U.S. mail, the official date of such application shall be deemed to be 2 days before its receipt in the office of the commissioner, excluding Saturdays, Sundays and holidays.

**3. REINSPECTION FEE.** Any person holding an expired permit for excavation or installation work which was not completed by the expiration date of the permit shall, in addition to a fee for a new permit to complete the work, also pay the applicable inspection fees of s. 81-50 for all department of public works inspection services performed after expiration of the permit.

**4. REFUNDS.** a. Requests for refunds shall be made in writing by the original permittee within 30 days of the issuance of the permit.

b. Any person requesting a refund for an unused permit shall be charged 20% of the permit fee with a minimum processing fee of \$20 except that no refund shall be made when the permit fee is \$20 or less.

c. Any person requesting a refund for a permit which was issued in error by the commissioner shall be entitled to a full refund of the permit fee.

d. No refund shall be made on a permit that has lapsed and been declared void.

e. Refunds shall be paid upon certification by the commissioner to the city comptroller who shall charge the refunds to the

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appropriate revenue accounts and shall annually inform the common council of the amount of fees refunded and the persons to whom refunds were made.

### **115-5. Permits for Excavation in New Street Pavements. 1. EMERGENCY SITUATIONS.**

The commissioner, at his or her sole discretion, is authorized to issue a permit for excavation in any new street, reconstructed street or resurfaced street less than 3 years old upon finding that an emergency necessitating such excavation exists. Examples of emergency situations include, but shall not be limited to, structural failure, clogging, leakage or defect in any underground structure or facility. An application for new building sewers or water, steam, electrical or other utility service shall not be considered an emergency.

#### **2. NON-EMERGENCY**

**SITUATIONS.** When the commissioner finds that no emergency exists, the commissioner may issue a permit for excavation in any new street, reconstructed street or resurfaced street where the pavement is less than 3 years old only upon:

a. Determining that no alternative to excavation is reasonably feasible.

b. Consulting with the local common council member or members. The commissioner shall deny the permit upon request of the council member.

**3. RESPONSIBILITY FOR REPAIRS.** Any permit issued pursuant to this section for excavation in street pavement less than 3 years old shall stipulate that the permit holder shall be financially responsible for any necessary repairs resulting from future defects in the affected pavement sections if such defects can be clearly attributed to the permitted excavation work.

**115-6. Register of Permits. 1.** The commissioner shall prepare and keep a general register of permits issued, numbered chronologically showing date of issuance, name of person to whom issued, location of the public way or public place to be excavated or disturbed, time in which the work is to be completed, amount paid for issuing permit, deposit receipt number of amount deposited for restoring the public way or public place and reason for excavation, and such other and further items as will enable anyone to obtain a

complete history of each permit from its issue to its termination. The copies of the permits kept by the commissioner shall constitute the general register.

**2.** A separate ledger record shall be kept for each permittee whose permit requires a deposit, showing date received, amount deposited, permit number and purpose of deposit. This ledger shall also show the final disposition of each deposit, i.e., invoice number and amount paid for required restoration (by city forces or otherwise) and amount refunded to permittee, if any.

### **115-7. Excavation Fees and Deposits.**

**1. PERMIT FEES.** No permit shall be issued to any person other than city forces except upon payment of the excavation permit fees required in s. 81-50, and the deposit fees required in sub. 3.

**2. INSPECTION FEES.** See s. 81-50-5 for the fees required for inspection services, or the exemptions therefrom, for each excavation permit.

**3. DEPOSITS.** a. Public utilities owned or operated by a municipality shall be billed for the cost of restoration of the public way or public place and all installations and facilities thereon on each permit after such restoration is completed. If payment is not made within 30 days after the issuance of the bill, no further permit shall be issued to such utility until after such bill or bills are paid.

b. All other persons shall deposit a sum estimated as sufficient to pay the cost of restoration of the public way or public place and all installation and facilities thereon in accordance with a schedule provided by the commissioner. After the repair is made, if the actual cost exceeds the deposit, such person will be billed for the balance. If the actual cost is less than the deposit, the excess shall be refunded. Any person failing to pay any bill issued under this section within 30 days after its issuance shall not be granted any additional permits until such bill is paid.

c. If any person shall file with the commissioner satisfactory proof that he has paid or contracted with a reputable person for restoration, the commissioner may at his discretion accept the same in lieu of the aforesaid deposits for restoring the public way or public place.

d. Whenever during an installation in a public way or public place, it becomes necessary to construct, reconstruct, alter, remove or protect any structure and/or facility owned by the city, such work shall be done at the expense of the applicant for such permit and under the direction and supervision of the commissioner. The commissioner may require a deposit to cover such cost. After the work is done, if the actual cost exceeds the deposit, such person will be billed for the balance. If the actual cost is less than the deposit, the excess shall be refunded. Any person failing to pay any bill issued under this section within 30 days after its issuance shall not be granted any additional permits until such bill is paid. This section shall specifically exclude interim wood poles under jurisdiction and control of the city, which may be relocated at no cost to the applicant when such pole is in direct conflict with a proposed driveway. Applications for removal of a pole in close proximity to a driveway or for convenience shall not be deemed a direct conflict.

**4. EMERGENCY SERVICES.** In addition to the fees and deposits hereinbefore set forth, any person who fails to keep the location for which the permit is issued in a safe condition at any time shall be billed for any emergency work performed by city forces in order to make the location safe. If such person fails to pay any such charge within 30 days after being billed for the same, no further permits shall be granted until the same is paid.

**115-8. Excavating Methods and Regulations.**

**1. REQUIRED.** When it is necessary to excavate in public ways and public places for an installation, the method shall be as prescribed in this section.

**2. EXCAVATING METHOD.** The excavation shall be of sufficient width and depth to permit the installation, special care being used to avoid damaging existing structures and/or facilities. The work is to be done in compliance with the rules and requirements prescribed by the commissioner.

**3. BACKFILLING OF EXCAVATIONS.** Backfilling of excavations in public ways and public places shall be done in accordance with the current specifications on file in the office of the commissioner. Whenever any person shall fail to comply with said specifications, the commissioner is authorized and directed to order the permittee to re-excavate and backfill in accordance with said specifications. If the permittee fails to comply

with such order within the time set forth in the order, the commissioner shall cause the same to be done and charge the cost thereof to the permittee.

**4. OBSTRUCTIONS.** Whenever any underground structures and/or facilities are encountered, the work is to be conducted so as not to disturb them, except where the contract specification requires that they be removed or relocated. Such structures and/or facilities which are not to be removed or relocated shall be protected and supported in accordance with the current specifications on file in the office of the commissioner and all other applicable laws.

**5. DAMAGE TO UNDERGROUND STRUCTURES.** Whenever any permittee, his agents, employees or subcontractors shall damage any underground structure and/or facility, the permittee shall notify the owner of such structure and/or facility immediately, and shall report the same to the owner in writing within 24 hours thereafter. If the owner is the city, such notice and report shall be made to the commissioner.

**6. RESTORATION OF PAVEMENTS.** Restoration of all types of pavements in any public way or public place shall be done in accordance with the current rules, regulations or specifications on file in the office of the commissioner, or in accordance with the specifications of any contractual agreement entered into with the city.

**7. REMOVAL OF REFUSE.** All refuse, excess dirt and material shall be removed from the public way or public place as the work progresses or immediately upon its completion where placing of such material on public ways or public places is permitted.

**8. SIGNAGE.** The permittee shall be required, prior to the start of construction until construction is completed, to prominently display an informational sign at a construction site in the public way. The sign will provide the nature of the construction; the contractor's name and phone number, and a city of Milwaukee contact phone number. Signage shall conform to and be placed in accordance with the current rules and specification on file in the office of the commissioner.

**115-9. Drainage Ditch Obstructions or Structures.** **1. PERMIT REQUIRED.** No person shall construct any building, structure or dike, or reconstruct, alter, or repair any building, structure, or dike, or otherwise obstruct the flow of streamwater through any natural or

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man-made channel, or obstruct the flow of surface water through any natural or man-made channel, natural depression or natural draw through which surface waters normally flow unless a permit has been obtained from the commissioner of public works.

**2. APPLICATION.** a. Any person desiring to obtain a permit to construct any building, structure or dike, or reconstruct, alter or repair any building, structure, or dike, which obstructs the flow of streamwater through any watercourse or natural or manmade channel, or obstructs the flow of surface water through any natural or man-made channel, natural depression or natural draw, through which surface waters normally flow, shall file an application in writing with the commissioner of public works which shall state the following:

a-1. The name and address of the applicant, and, if the applicant is a corporation, the names and addresses of the principal officers thereof.

a-2. The place where such construction, reconstruction, repair or alteration is to take place.

a-3. The type of construction to be used in such construction, reconstruction, repair, or alteration, together with the materials to be used.

b. Accompanying such application shall be a site plan or drawing of the proposed work, which shall include information concerning existing ground elevations and proposed alterations to be made to the watercourse, or natural, or man-made channel, depression, or natural draw. If the commissioner of public works determines that the proposed structure, alteration, or repair will not interfere with the flow of natural storm water and will not injure adjoining property, he shall issue a permit to do the proposed work in the manner specified in the application and in accordance with the plan submitted with the application. The applicant, at the time of filing an application for any such permit, shall deposit the fee required in s. 81-44 with the commissioner of public works.

**3. ISSUANCE OF PERMIT.** Whenever the flow of stream water through any watercourse or natural or man-made channel is obstructed, or the flow of surface water through any natural or man-made channel, natural depression or natural draw, through which any surface waters normally flow, is obstructed to the extent that such obstructions

causes or will cause, in the opinion of the commissioner of public works, a damage or flooding of any public highway, or a surcharging with storm, ground or surface water or any sanitary sewer, or damage or flood or water soak any public property, the commissioner of public works is authorized to enter upon such private land to remove any such obstruction so as to provide for the free flow of water therein. If, in the judgment of the commissioner of public works, negligence is involved, the cost of this work may be charged to the property owner.

**4. PENALTY.** Any person, firm or corporation violating this section shall upon conviction thereof be subject to penalties as provided in s. 200-19.

### **115-10. Temporary Occupancy of Public Ways.**

#### **1. GENERAL REGULATIONS.**

a. The permit to occupy a public way during construction work is intended for use in connection with the actual erection, construction, enlargement, alteration, repair, renovation, maintenance, removing or demolition of buildings and structures. No signs or advertising devices of any kind, except signs as regulated in chs. 244 and 295, may be displayed in the public way.

b. No person shall erect, place or store any material, equipment, shed, roof, fence, or temporary walk, guard, device, or any other structure within the public way without first obtaining a permit from the commissioner of public works. Fees for such permits shall be as regulated in s. 115-11.

c. These regulations shall not apply to the temporary or partial obstruction of a public sidewalk for a period of not longer than 30 minutes and not more than 2 times a week by vehicles used in fuel delivery or refuse collections provided that during such loading and unloading operations there remains an unobstructed sidewalk width not less than 3 feet for pedestrian traffic.

**2. CONDITIONS OF OCCUPANCY.** Permits for the temporary occupancy of public ways and the duration of such permits shall be contingent upon compliance with the conditions of this section and rules and regulations established by the commissioner of public works.

a. Such occupancy shall be limited to that part of the public way abutting the

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premises on which construction work is in progress.

b. Such occupancy, including temporary sidewalk, if one is required, shall not extend into the roadway of a public way more than 1/3 the width of the roadway and in no case more than 20 feet, and provided further that no such occupancy shall be within 6 feet of the rail of any railroad track.

c. Such materials, equipment, temporary buildings or structures referred to in sub. 1 shall not be placed, stored or erected within 4 feet of any tree, nor within 2 feet of any standpipe, fire or police alarm box, utility catch basin or manhole, nor within 15 feet of a fire hydrant, measured along the curb line, and shall not obstruct the access to any fire hydrant, fire cistern, standpipe, fire or police alarm box, utility box, catch basin or manhole.

d. Such materials, equipment, temporary buildings or structures referred to in sub. 1 shall not be located within 20 feet of a street intersection, nor so placed, stored or erected as to obstruct normal observation of traffic or traffic control lights, signals, or signs, fire hydrants, fire and police alarm boxes, or to hinder the use of bus loading platforms or zones.

e. The drainage in street gutters shall be maintained at all times.

f. Persons securing permit shall be responsible for placing and maintaining lights during darkness and at night in full view of the public at each excavation, pile of material, equipment, fence, temporary walk, shed, enclosure, or other obstruction referred to in sub. 1 on any public way.

g. Pedestrian traffic shall be maintained at all times, either on the existing sidewalk or on a temporary walkway in the roadway, or as otherwise determined by the commissioner of public works. A fence, railing, or other approved guard, if required by the commissioner of public works, not less than 3 feet 6 inches high shall be erected on both sides of the temporary walkway. A fence at least 4 feet high shall be erected on the building side of the existing sidewalk if an excavation is within 10 feet of a public way, s. 228-2-3.

h. Approved canopies shall be erected over street walks as provided in s. 228-2-2. For any occupancy of the public way in connection with the erection, construction, enlargement, alteration, repair, renovation, maintenance, removal or demolition of a building or structure on property in a C9 downtown

zoning district, where the work is occurring more than 10 feet above grade, a protective canopy roof providing full pedestrian protection and meeting the standards of s. 228-2-2 shall be required.

i. Unless permitted by the commissioner of public works, earth or rubbish shall not be stored on any public way.

j. The commissioner of public works may issue permits for the erection of temporary guy lines beyond the area permitted in a street permit, provided such guy lines are at least 20 feet above the public way.

k. The permittee shall be required, at least one week prior to the temporary occupancy, to notify all abutting property owners of the anticipated period of occupancy, the number of working days involved, the date the occupancy is scheduled to begin, the date it is to end, the parking restrictions which shall apply and the traffic congestion which may occur.

**115-11. Permits for Temporary Occupancy of Streets.**

**1. GENERAL REGULATIONS.** Permits for the temporary occupancy and use of public ways and any construction therewith regulated in s. 245-4-20, shall be obtained from the commissioner of public works as regulated in s. 115-10 and by the rules and regulations established by the commissioner of public works.

**2. PERMIT FEES AND DEPOSITS.** See s. 81-102 for the required permit fees for the temporary occupancy of a public way for the placing, storing, or erecting of any material, equipment, buildings or structures, necessary for construction work, or for the placing or creating of any safeguards required by ch. 228.

**115-11.5. Dumpsters in the Public Way; Temporary Basis.**

**1. RESPONSIBILITY TO OBTAIN PERMIT.** For any dumpster placed in the public way on a temporary basis, it shall be the responsibility of the business placing the dumpster to obtain the permit required by s. 115-10. No permit shall be required for any dumpster placed in the public way by the city. For any dumpster placed in the public way on an ongoing or permanent basis, it shall be the responsibility of the owner of the property served by the dumpster to obtain a special privilege as provided in s. 245-12.

**2. STANDARDS.** For any dumpster placed in the public way on a temporary basis, it shall be the responsibility of the commissioner

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(for a dumpster placed by the city) or the business placing the dumpster (for all other dumpsters) to provide:

a. The name and telephone number of the city agency or private business placing the dumpster, applied to the exterior of the dumpster in letters and numbers at least one inch high.

b. Either of the following:

b-1. Alternating red and white DOT-C2-approved 2-inch-wide retroreflective conspicuity tape applied along at least 50% of the exterior sides of the dumpster and entirely across the front and back ends of the dumpster. In addition, 2 2-inch-by-12-inch segments of white retroreflective conspicuity tape shall be placed together to form an inverted "L" on the exterior of each upper corner of the dumpster.

b-2. One Type I barricade with an attached flashing yellow light. This barricade shall be placed on the side of the dumpster which faces approaching traffic. For a dumpster in an alley or sidewalk area, barricades of this type shall be provided on both sides of the dumpster which face vehicular or pedestrian traffic.

**115-12. Delaying of Work.** Any person making or causing any excavation in any street, alley, sidewalk or on other public property, shall proceed and complete such excavation, and backfill same within a reasonable time, and to the satisfaction of the commissioner of public works. Failure to complete any excavation and backfilling, in accordance with an order so to do by the commissioner of public works, shall be sufficient reason for the commissioner of public works to order the backfilling of such excavation and charge the cost thereof to the person to whom the permit has been issued. No further permits shall be issued to such person until such costs have been paid.

**115-13. Sewers; Damaging or Entering Sewers Prohibited.** No person shall disturb, damage or enter any public sewer pipe, manhole, catch basin or other part of a sewer system without a special permit from the commissioner of public works or his authorized representative.

**115-14. Street Design Standards.** The following design standards apply to the design, construction or reconstruction of new or existing streets by the commissioner of public works and by the city:

1. The commissioner shall employ street design standards to minimize street pavement width and to provide only the pavement width necessary to ensure safe movement of traffic. The pavement width for a local street, as defined in s. 295-201-643, shall be not less than 22 feet and not more than 36 feet unless otherwise approved by the common council.

2. The minimum radius for the paved portion of a cul-de-sac shall be 35 feet.

3. A landscaped island shall be created in any cul-de-sac having a paved-area radius greater than 35 feet. This requirement may be waived by the common council.

4. Alternatives to cul-de-sac turnaround design, including but not limited to hammerheads and loop roads, shall be permitted for residential streets.

5. Vegetated open channels shall be permitted along residential streets with openings in the curb face or other conveyance methods that maintain curb and gutter.

6. Flush curbs or curb cuts that direct runoff into landscaped islands shall be permitted.

7. The minimum width of a tree border on a local street, as defined in s. 295-201-643, shall be 6 feet. This requirement may be waived by the common council.

8. The portion of the street right-of-way commonly known as the tree border and located between the curb and the outside line of the sidewalk closest to the curb may be designated and used for storm water treatment purposes.

**115-15. Interference With Installations.** No person shall interfere with, hinder or obstruct any installation authorized by the common council or the commissioner.

**115-16. Changing of Grade Prohibited.** No person shall alter the grade of any public way or public place unless authorized or directed to do so by the common council or the commissioner.

**115-17. Addition or Removal of Material Prohibited.** No person shall deposit any material on any public way or public place unless authorized or directed to do so by the common council or the commissioner. No person shall remove any material owned by the city in or on any public way or public place unless authorized or directed to do so by the common council or the commissioner.

**115-18. Correction of Improper Construction.**

Whenever an installation is constructed or a maintenance activity undertaken in violation of this chapter, the commissioner shall order such installation to be removed and properly placed and the area restored. Upon refusal of the person making or maintaining such installation to do so within the time set forth in the order, the commissioner shall cause the necessary work to be done and charge the expense to such person.

**115-18.5. Maintenance of Facilities.**

All facilities located on, under or over any public way, public place or any property owned by the city or any public board, commission, authority or agency for which a franchise, privilege or permit has been issued, shall at all times be kept and maintained in a safe, adequate and substantial condition and in good order and repair. Permittees shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

**115-19. Plans of Structures or Facilities Within Public Ways.**

The commissioner shall prepare or cause to be prepared drawings, plans, and profiles and any deviations therefrom of all structures or facilities installed by the city or any departments thereof on, over and under the public way or public place and shall keep the same until such time as the structure or facility is removed or replaced.

**115-20. Submission of Plans.**

**1.** Complete plans for proposed installation, removal, or abandonment of structures and/or facilities under, upon, or over any public way or public place shall be submitted and approved when required by the commissioner before a permit is issued; and complete plans of existing structures and/or facilities used, occupied or maintained in pursuance of a permit, resolution, ordinance or franchise under, upon or over any public way or public place shall be submitted when requested by the commissioner.

**2.** In the event that actual construction departs from plans submitted prior to the issuance of a permit, complete "as built" plans shall be submitted.

**3.** Complete plans, as required in sub. 1, shall include all drawings, profiles and

plans necessary to clearly indicate the number, location, character, extent and amount of space occupied by the structure and/or facility. The plans shall also include a schedule of operation, including the anticipated commencement date, completion date and total number of working days necessary for the project. Such plans shall be prepared at the expense of the person owning, occupying or maintaining the structure and/or facility.

**115-21. Utility Wires, Poles, Cables, etc.**

**1. AUTHORITY OF COMMISSIONER OF PUBLIC WORKS.** The purpose of this section is to set forth the duties, powers and functions of the commissioner with respect to effectuating the removal or relocation by public utility companies of poles, aerial wires and cables, and other aerial appurtenances or devices used in the operation of the business of public utility companies when streets are paved or repaved with concrete or with a concrete base and a bituminous surface, within the city so as to maintain, protect, safeguard and advance the public safety and general welfare; and this section is predicated upon the police powers of the city provided for by law.

**2. UTILITY COMPANIES TO COMPLY.** Any public utility company which maintains, uses or has poles, aerial wires and cables, or any other aerial appurtenances and devices, or articles used by such public utility company in the operation of its business, or owned by it, on, along, or upon any city street, highway or thoroughfare, excluding alleys, upon notice from the commissioner to the effect that the common council by resolution has determined to pave, improve, repave, construct, alter or change a city street, highway, or thoroughfare, excluding alleys, in the manner set forth in sub. 1, shall, before the expiration of the time provided for in such notice, remove or relocate such poles, aerial wires and cables, or other aerial appurtenances and devices, or articles maintained or used in the operation of such public utility business. Such poles, aerial wires and cables or other aerial appurtenances, devices or articles maintained or used in the operation of said public utility business shall, at the expense of such public utility company, be removed, relocated or laid in underground conduits.

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**3. BY COUNCIL RESOLUTION.** Prior to November 15 of each year, the commissioner shall prepare and recommend to the common council a list of streets to be paved, repaved or reconstructed, and a copy of such list shall be sent to the utility companies affected. Thereafter, the common council shall, on or before December 31 of each year, or as soon thereafter as the same can be effected, by resolution declare its intention to pave, repave or reconstruct certain streets, and shall in such resolution set forth the time within which there shall be removed or relocated poles, aerial wires and cables and other aerial appurtenances or devices maintained or used in the operation of the business of public utility companies. The commissioner, as is provided for in sub. 4, shall notify such public utility company, in writing, by registered mail, provided the paving project set forth in the resolution is to be carried into effect in the ensuing year as evidenced through the adoption of the city budget; such notice shall be sent within 30 days after the common council has adopted the resolution setting forth the time within which the poles, aerial wires and cables and other aerial appurtenances or devices maintained or used in the operation of the business of public utility companies are to be removed or relocated.

**4. WRITTEN NOTICE.** The commissioner, as provided in sub. 2, shall notify such public utility company in writing, by registered mail, informing such public utility company of the proposed work to be done by the city, and shall approve the manner in which such poles, aerial wires and cables or other aerial appurtenances and devices or articles maintained or used in the operation of such public utility business, shall be removed or relocated or laid underground; and no public utility company shall permit its poles, aerial wires and cables or other aerial appurtenances and devices or articles maintained or used in the operation of its business on, along, or upon any city street, highway or thoroughfare, excluding alleys, from which it has been directed by the commissioner to remove or relocate the same as hereinbefore set forth; and any failure by such public utility company to remove or relocate its poles, aerial wires and cables or other aerial appurtenances and devices or articles maintained or used in the

operation of its business upon the expiration of the time provided for in such notice, or any written extension of time granted by the commissioner, shall constitute a violation of this section and shall be punished in the manner set forth in sub. 6.

**5. HEARINGS; OBJECTIONS.** Any public utility company may, if it feels itself aggrieved by reason of the notice, file, within 20 days after receipt of such notice from the commissioner, its verified objections thereto with the common council, and shall be heard in the manner directed by the common council. The committee of the common council to which the objections are referred may direct that a view of the area involved shall be had in determining the merits of the objections filed. Unless within 30 days after such written objections are filed with the common council, the common council shall otherwise direct the removal or relocation of the poles, aerial wires and cables, or other aerial appurtenances and devices or articles maintained or used in the operation of said public utility business shall be made as provided for in said notice and in this section. The common council committee to whom the verified objections are referred for consideration may, in its discretion, enlarge the period of time in which a review should be had under the provisions of this subsection.

**6. PENALTY.** Any public utility company failing to comply with this section shall, upon conviction thereof, be subject to a penalty of not less than \$5 nor more than \$15 for each and every offense committed. However, the overall aggregate penalty for each day if any such public utility company fails to comply with the notice of the commissioner as herein provided shall not exceed the sum of \$25 per day.

**7. APPLICABILITY.** Whenever it shall appear to the common council that because of the extensive paving program to be undertaken by the city during the year, the periods of time or the procedures applicable produce substantial administrative difficulties when carrying out the provisions of this section, the common council by resolution may determine that this section is inapplicable and may in such event establish an alternative procedure by resolution, and in such instance the provisions of the section shall be inapplicable and inoperative.

**115-22. Utilities to Change Structures Upon Request.** Any public utility operating under a franchise, privilege or permit whether under the ordinances of this city or of the statutes of the state of Wisconsin, owning and maintaining any structures and/or facilities under such franchise, privilege or permit on, under, or over any public way or public place or any property owned by the city or any public board, commission, authority or agency which shall at any time interfere with or obstruct or be in the path of any public works or improvements of any nature whatsoever undertaken by the city in its own behalf, or any public board, commission, authority or agency, shall, upon written notice from such city, public board, commission, authority, or agency or the commissioner of public works, or their duly authorized agents, make such changes in the construction or location, or both, of the structures and/or facilities at the cost and expense of said utility as will permit such public works or improvements.

**115-22.5. Street and Alley Construction.** The use of permeable paving, as defined in s. 200-08-68.5, shall be permitted for city streets and alleys.

**115-22.7. Coal Tar Sealants and High PAH Sealants Prohibited.** No person shall apply any coal tar sealant product or high PAH sealant product, as defined in s. 66-30-1 and 2, on any public way or public place in the city.

**115-23. Driveways.** The commissioner is empowered to determine the type, width, location and number of driveways and to regulate the distance between driveways to provide for the safety of pedestrians, provided, however, any driveway in excess of 30 feet in width must be approved by the common council. He or she may issue a permit for the construction of a standard, depressed or raised street pavement driveway. See s. 81-45 for the required permit fee. All driveways shall be constructed in accordance with the provisions of the specifications of the city which may be supplemented by any additional reasonable rules and regulations of the commissioner as to the materials used and the manner and methods to be adopted and employed during the construction of such driveways. The use of permeable paving, as defined in s. 200-08-68.5, in the construction of driveways shall be permitted.

**115-24. Sidewalk Construction; Exceptions.**

1. Sidewalks shall be constructed of concrete or permeable paving, as defined in s. 200-08-68.5, and constructed in accordance with the specifications of the city. Provided further, that so much of the sidewalk area commonly known as the tree border and located between the curb and the outside line of the sidewalk closest to the curb, may be laid or constructed of permeable paving stone, brick or concrete pavers where the material and manner of laying are approved by the commissioner. The tree border may also be used for storm water treatment purposes.

2. Sidewalks shall be constructed and conform with established street grades or as otherwise determined by the city engineer where usage or unusual conditions require a change for the welfare and best interest of the city and abutting property owners. This section shall not apply under the following conditions:

a. Temporary sidewalks authorized by the commissioner.

b. Temporary repairs authorized by the commissioner.

c. Repaving of the surface of hollow sidewalks found by the commissioner to be structurally sound.

d. Where the sidewalk crosses a railroad track. Wood planking may be used between the rails and within 2 feet of the outside of said rails where approved by the commissioner.

e. On public bridges.

f. In tunnels.

g. Under other conditions with the approval of the commissioner.

**115-25. Restoration of Street Pavement, Curb, Gutter and Sidewalk.** When the improvements on or the use of property which is being served by a driveway is so changed that the driveway in the opinion of the commissioner is no longer needed, the owner of the property shall, through the services of a licensed contractor, cause the restoration of the street pavement, curb, gutter and sidewalk to conform with the adjoining street pavement, curb, gutter and sidewalk. Upon failure of the owner of the property to do so, the commissioner is authorized to perform such restoration and assess the costs thereof to the property. Whenever a permit is issued by the commissioner of city development for work which will result in the discontinuance of the

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use for an existing driveway, the proper restoration shall be a condition of the issuance of the permit.

**115-26. License for Concrete Construction in the Public Way.** Persons desiring to construct, reconstruct or alter any concrete driveway, sidewalk, curb and/or gutter, or hollow walk in the public way shall, before engaging in such work, make application to the commissioner for a license which shall be issued to the applicant therefore authorizing the licensee to engage in such work upon the payment of the license fee to the city treasurer in the amount required in s. 81-38, and upon filing with the commissioner a performance bond in accordance with s. 115-27, and an indemnity bond or in lieu thereof a certificate of insurance in accordance with s. 115-28.

**115-27. Performance Bond.** The performance bond shall be executed by the applicant and a corporate surety and shall provide in substance that the applicant and surety are firmly bound unto the city of Milwaukee in the penal sum of \$5,000, and that the bond shall be void if the applicant shall perform and sufficiently complete all work for which permits are issued in the calendar year of the license and bond in accordance with all ordinances of the city within a reasonable period of time, and shall reimburse the city for all damages to any city property resulting from such work operations, regardless of whether the damage is done by the applicant, his or her agents, employees or subcontractors. In addition to the aforesaid provisions, the bond shall guarantee all work for 3 years from the date of completion thereof. The corporation surety shall be authorized to execute in the state of Wisconsin and have a power of attorney to file in the city attorney's office.

**115-28. Indemnity Bond.** 1. REQUIRED. An indemnity bond duly executed by the applicant and corporate surety, or, in lieu thereof, a certificate of insurance from an insurance company, shall bind the same unto the city of Milwaukee in the penal sum of \$10,000 and shall be conditioned that the applicant and

surety of insurance carrier will indemnify and save harmless the city, its officers and agents against any and all injuries and/or property damage resulting or arising from any single injury or act on the part of the applicant, his agents, employees and subcontractors, and that said applicant or his insurer shall notify the city in writing at least 10 days prior to the cancellation of any certificate of insurance afforded hereunder. Said certificate to be in full force and effect as to any permits issued prior to said cancellation, and all work done under said permits within the calendar year for which the license is issued.

2. AUTHORIZED AGENCY. The corporate surety or insurance carriers shall be authorized to execute bonds or sell insurance in the state of Wisconsin and have a power of attorney on file in the city attorney's office.

3. EXCEPTION. Any company or industry regulated under ch. 196, Wis. Stats., shall be exempt from the provisions of this section requiring the filing of and indemnity bond or certificate of insurance, but agrees as a condition of accepting a permit to save harmless the city of Milwaukee, its officers and agents, from all and any claims for injuries to persons and/or property resulting or arising from any injury or act on the part of any such company or industry, its agents, employees or subcontractors arising from the construction for which the permit was issued.

**115-29. Barriers and Lights.** 1. Any person installing, excavating, constructing, reconstructing, grading, filling, or doing any other repairing or improving in any public way or public place shall provide adequate barricade lights and such other protective devices as may be necessary to adequately warn the public of the condition of the area and prevent injury to any person or property.

2. It shall be unlawful for any person without proper authority to remove, throw down, or cause to be removed or thrown down any barrier or barricade or any part

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thereof; or to remove, or put out or destroy, or turn out or tamper with, or cause to be removed, put out or destroyed, or turned out or tampered with, any light or lamp erected, or put up, in or upon any public way or public place.

3. It shall be unlawful for any unauthorized person to drive through or into barricade areas in any public way or public place unless the person driving through or into such barricaded area secures permission from the commissioner.

**115-30. Temporary No Parking Areas, Construction.** 1. The commissioner is authorized to place temporary no parking signs in areas in which authorized work is being done or will be done.

2. It shall be unlawful to place, park or allow to stand any vehicle in any public way or public place where temporary no parking signs have been erected, except vehicles being used in such work.

3. It shall be unlawful to remove, throw down, or cause to be removed without proper authority, any such no parking signs.

**115-31. Open Stairwell Protection.** Open stairwells in the public way shall be protected on all open sides by a railing or permanent barrier at least 3 feet high approved by the commissioner and shall comply with ss. 245-4-11 and 245-5-3.

**115-32. Obstruction on Public Ways.** 1. No person shall build, place or maintain or cause, permit, or allow to be placed, built, or maintained, or pile, deposit, or place, or permit to be piled, deposited, or placed in, upon, or over any public way or public place in the city any obstruction, encroachment, building, structure, wares, merchandise, rubbish, garbage, wood, coal, dirt or other article or obstruction of any kind whatsoever, or so occupy or obstruct any public way or public place so as to interfere with the complete, free and convenient use of the same by the public or any member thereof, except the following obstructions specifically permitted by law:

a. Newspaper stands as provided by s. 115-33.

b. Permissible projection, obstructions, and encroachments as provided by s. 245-4.

c. Special privilege permits granted pursuant to common council resolution.

e. Ducts or conduits in the sidewalk as provided by s. 115-36.

f. Lawn sprinklers in the sidewalk area as provided by s. 115-37.

g. Facilities for the collection and distribution of mail as provided by s. 115-38.

h. Telephone booths as provided for in s. 115-39.

i. Other obstructions of a temporary nature permitted by the commissioner or the common council.

j. Poles permitted under this chapter.

k. Newspaper vending boxes as provided by s. 115-33.5.

L. Bicycle parking facilities as provided by s. 115-32.5.

m. Flower pot holders as provided in s. 115-33.6.

n. Sidewalk area dining facilities as provided by s. 115-32.6.

2. a. The location of any permitted obstruction shall not be construed or deemed to be a vested interest. A permittee shall remove or modify an obstruction at his or her own expense and restore the public way to the satisfaction of the commissioner whenever the city determines that the public convenience would be enhanced by such removal or modification. Except as otherwise provided, the owner shall remove the obstruction from the public way within 30 days, or any special privilege within 10 days, of the receipt of written notice from the commissioner. If the owner fails to carry out the required work, the commissioner may cause the removal, certify the costs thereof in the proper manner to have them levied as special charges against the property and, if the charges become delinquent, the proper city officials shall enter the charges on the tax rolls for payment, settlement and collection as provided in ch. 19 of the city charter.

b. The owner of any non-permitted obstruction shall remove, at his or her own expense, the obstruction within 5 days of receipt of written notice from the commissioner. The owner shall restore the public way to the satisfaction of the commissioner. If the owner fails to carry out the required work, the commissioner may cause such removal and certify the costs thereof in the proper manner to have them levied as special charges against the property and, if the charges become delinquent, the proper city officials shall enter the charges on the tax rolls for payment, settlement and

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collection as provided in ch. 19 of the city charter.

3. The director of the department of public works infrastructure services division, or any official or employee of the division of infrastructure services that the director may designate, may issue a citation for any violation of this section pursuant to s. 50-25.

### **115-32.5. Bicycle Parking Facilities; Permits.**

1. PURPOSE. The purpose of this section is to reduce safety hazards to pedestrians by setting aside sidewalk areas under certain conditions for the parking of bicycles, thereby separating the pedestrians from parked bicycles.

2. DEFINITIONS. a. A "bicycle locker" shall mean a lockable, enclosed storage compartment designed for the storage of a bicycle and bicycle-related gear.

b. A "bicycle parking facility" shall mean a bicycle rack, a bicycle parking stand or holder, a bicycle locker, a hitching post or a bicycle ring.

c. A "bicycle parking stand or holder" shall mean a device designed for individual use into which one or both of the bicycle wheels is/are fitted and secured either by a chain/cable and lock or a lock supplied by the bicycle owner.

d. A "bicycle rack" shall mean a frame of metal tubing generally designed as a unit for use by more than one bicycle, into which one of the bicycle's wheels is fitted and locked by a chain and lock supplied by the owner.

e. A "bicycle ring" shall mean one or more rings attached to a structure to which bicycles can be securely fastened.

f. A "hitching post" shall mean a free standing unit into which one or more bicycles can be attached by chains or ropes.

g. A "person" shall mean any individual, partnership, corporation, firm, group or association.

3. PERMIT REQUIRED. It shall be unlawful for any person to install a bicycle parking facility in the public way without having first secured a permit. No permit shall be required for installation of a bicycle parking facility by the department of public works.

4. PERMIT. a. Application. Applications for such a permit shall be made to the commissioner of public works on blanks furnished by the commissioner, and shall state thereon:

a-1. The name and permanent address of the person.

a-2. The address of the property adjacent to which the proposed bicycle parking facility will be installed.

a-3. A brief description of the proposed bicycle parking facility together with a scaled plan showing its proposed location in the public way shall be submitted.

a-4. Each person shall file a signed statement that he is the owner of the private property immediately adjacent to the proposed location of the bicycle parking facility and that he shall be fully responsible for maintaining it in good repair. If the person applying for the permit is not the owner, then an individual must be designated who will be responsible for maintaining the bicycle parking facility in good repair, and a consent form signed by the property owner immediately adjacent to the proposed parking facility stating that he approves its location shall also be submitted.

a-5. The person shall file with the commissioner of public works a certificate of insurance indicating that the person holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident, and \$10,000 covering property damage to any one owner in the area included within the permit, and naming the city of Milwaukee as an insured. The person shall also file with the commissioner of public works a bond of a surety company duly incorporated in the state of Wisconsin or duly licensed to do business in this state in such sum as the commissioner may require but not exceeding \$10,000, such bond to be approved by the city attorney. Individual sureties shall not be deemed in compliance with this section. Both bond and insurance policy shall provide that they shall not be cancelled until after at least 30 days' notice in writing to the commissioner of public works.

a-6. Each applicant shall execute a signed statement that the information given is full and true and known to him to be so.

b. Issuance. b-1. The application for said permit shall be submitted by the commissioner of public works to the local alderman, the city engineer and the commissioner of neighborhood services for their review and comment.

b-2. The commissioner shall issue a permit to the applicant when all the requirements of this section have been complied with and upon the payment of a fee.

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b-3. When the commissioner of public works determines that the permit should not be issued, the applicant shall have the right to appeal the decision in accordance with s. 115-41.

c. Fee. c-1. See s. 81-11 for the required permit fee.

c-2. The permit shall expire on the 30th day of June after the granting thereof, unless sooner revoked. The permit shall automatically renew upon payment of an annual fee and the filing of the location of all bicycle parking facilities relocated since the last renewal date.

d. Revocation. At any time that the permittee shall violate any of the conditions upon which said permit was issued, the commissioner of public works or his/her agent shall forthwith serve a written notice upon the permittee specifying the nature of the violation and ordering correction or removal within 30 days. Upon noncompliance with this order to correct a violation, the commissioner of public works shall notify the common council, which shall hold a public hearing thereon, after the permittee shall have had 10 days written notice of such hearing. Thereafter, for cause shown, the common council may revoke such permit and require the removal of the bicycle parking facility. If the common council revokes such permit and approves a new application for the same permittee during the same year, it shall be in the same manner and after payment of the same fee as provided for in the original issuance of a permit. Nothing contained in this subsection shall be construed to limit the power of any enforcement officer in prosecuting violations of the code.

e. Display of Permit. The permit shall be displayed conspicuously upon the premises adjacent to the bicycle parking facility at all times.

**5. REGULATIONS.** a. The permittee shall maintain the bicycle parking facility in good repair and keep it in such condition that it does not become a hazard to pedestrians.

b. The permittee shall keep the sidewalk adjacent to his property free from obstructions to pedestrians by placing the bicycle parking facility so that a walk space not less than 6 feet wide shall at all times be kept open for pedestrians.

c. The bicycle parking facility shall be installed and maintained in the public way immediately adjacent to the permittee's property.

d. The permittee shall be fully liable for damages to persons or property by reason of the granting of said permit, and the city shall be held harmless of any damages arising with regard to bicycle parking facilities.

**6. REMOVAL.** a. If the bicycle parking facility becomes a hazard or an obstruction to pedestrians, the commissioner of public works shall order the permittee to repair or remove the bicycle parking facility in the public way or public place by a certain date, not less than 3 nor more than 30 days from the date of service of the order. If the permittee fails to comply with the order, it shall be the duty of the commissioner to immediately deliver a certified copy of the order to the chief of police together with the demand for compliance within not less than 3 and not more than 30 days after service of the order. The chief of police shall within 3 days after the receipt of the order, serve or cause to be served by a police officer a copy of said order upon the owner or person named in the order. After being notified of the order, the owner or his or her agent named in such order shall repair, remove, or cause to be removed, at his expense, the obstruction from the public way or public place within the time specified in the order. If the owner or his or her agent named in the order fails to comply with such order, the commissioner shall remove the obstruction and charge the cost of removal to the owner. If the charge becomes delinquent, the charge shall be placed on the tax roll and become a lien upon the property for payment, settlement and collection as provided in ch. 19 of the city charter.

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b. The permittee shall temporarily or permanently remove, at his expense, a bicycle parking facility within a reasonable time after being ordered to do so by the city if the removal becomes necessary or appropriate to the accomplishment of any public improvement or to the operations of any city forces. If the permittee fails to do so within a reasonable time, city forces shall do so and bill the permittee for the cost of removal. Failure of the permittee to pay the bill shall cause the delinquent charge to be levied as a special charge against the property and to be placed on the tax roll and become a lien upon the property for payment, settlement and collection as provided in ch. 19 of the city charter.

7. PENALTY. Any person who shall violate this section shall, upon conviction thereof, be subject to a fine of not less than \$25 nor more than \$250 for each violation, and upon default of payment thereof, be punished by imprisonment in the house of correction for a period of not more than 60 days. Where the violation consists of failing to do a required act, each day shall be regarded as a separate offense.

### 115-32.6. Sidewalk Area Dining Facilities; Permits.

1. PURPOSE. The purpose of this section is to establish reasonable rules and regulations governing placement, operation and maintenance of sidewalk area dining facilities in the public right-of-way. The city welcomes such uses in the public way but must also ensure that convenience, safety and general access for pedestrians will be maintained.

2. DEFINITION. A "sidewalk area dining facility" shall mean an open air space located in the public right-of-way and created for the purpose of consuming food or beverages prepared on private property adjacent thereto.

3. PERMIT REQUIRED. It shall be unlawful for any person to use the public right-of-way as a sidewalk area dining facility without first obtaining a permit therefore. The application and annual space rental fee for sidewalk area dining facilities shall be as specified in s. 81-106.7.

4. APPLICATION. Application for a permit shall be made to the city clerk in accordance with s. 85-12. An application shall include both a written plan of operation and a plan drawing.

a. The plan of operation shall, at a minimum, indicate:

a-1. The expected starting date and ending date of the sidewalk area dining facility.

a-2. The proposed daily hours.

a-3. The planned capacity of the sidewalk area dining facility.

a-4. Whether any of the proposed sidewalk area dining facility improvements would be physically attached to public infrastructure and, if so, how.

a-5. The number of customers expected on a daily basis at the premises.

a-6. The legal occupancy limit of the premises.

a-7. Plans the applicant has to provide security for the premises.

a-8. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

a-9. A description of any provisions made for clean-up of the premises.

b. The plan drawing shall be legible, submitted on 8.5" x 11" paper and include, at a minimum, the following:

b-1. The business name, address, phone number, contact person's name and contact person's phone number.

b-2. The length and width of each proposed sidewalk seating area.

b-3. The curb line, property line and building face.

b-4. All tables, chairs, benches, planters, server stations, umbrellas, heating lamps and other furniture or fixtures.

b-5. The names of all streets shown on the drawing.

b-6. A north arrow.

b-7. Any other information the city clerk would from time to time require.

c. The application shall be signed by both the applicant and the property owner (if other than the applicant).

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**5. CHANGES TO BE REPORTED.** See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

**6. PERMIT FEE.** See ch. 81 for the required permit fee.

**7. INSURANCE.** Prior to issuance of a permit, every person applying for a permit shall file with the city clerk a certificate of general liability and property damage insurance that maintains the minimum insurance coverages specified in s. 245-12-3-b. Every certificate shall be executed by an insurance company licensed to do business in the state of Wisconsin.

**8. AGE QUALIFICATION.** No permit shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

**9. DISQUALIFICATION.** Whenever any application is denied, or a permit is revoked, surrendered or not renewed, the procedures for disqualification for permit and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

**10. INVESTIGATION REQUIREMENTS.** Each application for a new license shall be referred to the commissioners of public works, neighborhood services and health in accordance with s. 85-21.

**11. OBJECTION.** An objection to issuance of a permit shall be based on the factors set forth in s. 85-2.7-4. If the local common council member or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 5-2.7.

**12. ISSUANCE.** See s. 85-12.5 for provisions relating to the issuance of a permit.

**13. PERMIT TERM.** A sidewalk area dining permit shall expire the same date as other licenses issued for the premises.

**14. POSTING.** Each permit shall be displayed in proximity to the sidewalk seating area so that it is visible from the public sidewalk.

**15. TRANSFER.** See s. 85-19 for provisions relating to the transfer of a permit and the change of permit holder names.

**16. RENEWAL.** Application for renewal of a permit shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the commissioner of public works. If the applicant still meets the permitting qualifications, the permit shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the permit, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

**17. REVOCATION OR SUSPENSION OF PERMIT.** Any permit issued under this section may be suspended or revoked for cause by the common council after notice to the permit holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

**18. OPERATIONAL REQUIREMENTS.** a. Hours of Operation. The hours of operation of the sidewalk area dining facility shall be as approved by the common council.

b. Pedestrian Clearance. All sidewalk seating areas shall at all times maintain a minimum clearance of 5 feet for pedestrian traffic. The clearance area shall be clear of all obstructions and provide a straight pedestrian path to the greatest degree possible.

c. Paved Surface. At no time shall any furniture that is part of a sidewalk seating area be placed on grass, landscaping mulch or other unpaved surfaces. Sidewalk seating area furniture shall be placed on a paved surface of concrete, asphalt, pavers or other approved surface material.

d. No Permanent Attachment. No sidewalk seating area tables, chairs, planters, server stations or other furniture or fixtures shall be permanently affixed to the public sidewalk, light poles, traffic signal poles, bicycle racks, street trees or other public improvements. Nothing shall be hung from street trees, light poles, sign posts or traffic signal poles.

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e. Alterations of Public Improvements. Existing public improvements in the sidewalk area, such as benches, planter boxes, tree grates, bicycle racks, kiosks and trash receptacles, shall not be moved or removed to accommodate a sidewalk seating area unless it is determined that the improvements are no longer needed or that they can be appropriately relocated. Any alterations to public improvements shall be approved by the commissioner of public works and made at the permit holder's expense.

f. Food or Beverage Preparation Within Public Right-of-Way. Any food or beverages shall be stored and prepared within the affiliated establishment. No storage or preparation of food or beverages shall occur within the public right-of-way.

g. Compliance With Plan of Operation. Failure to comply with the approved plan of operation shall constitute grounds for modification, nonrenewal, suspension or revocation of a permit as provided in s. 85-4-4.

h. Other Requirements. The common council may establish other operational requirements as may be necessary to regulate the location, design and operation of the sidewalk seating area.

**19. REMOVAL.** The permit holder shall remove all tables, chairs, fencing and other material associated with the sidewalk area dining facility and restore the public way whenever public necessity so requires as determined by resolution of the common council or upon expiration of the permit. In addition, the commissioner of public works may order the temporary removal of sidewalk dining facilities for major civic events, emergency repairs or other public improvements. The permit holder shall not be entitled to any damages when/if removal is required.

**20. MINIMUM SIDEWALK CLEARANCE.** All sidewalk area dining facilities shall maintain a minimum sidewalk clearance of 5 feet, and the minimum clearance shall be kept clear of all obstructions, as specified in the guidelines provided by the commissioner under sub. 7.

**21. GUIDELINES.** The commissioner of public works in administering this section shall refer to guidelines adopted by the common council. These guidelines shall include standards regarding the location, design and operation of sidewalk dining areas.

**22. LIMITATIONS.** The commissioner of public works may only issue sidewalk area dining permits when the affiliated food or beverage establishment is a permitted use under the zoning regulations of the city. When the affiliated establishment is a special use under city zoning regulations, a sidewalk area dining facility may be permitted through special use procedures subject to applicable regulations of this section.

**23. ASSOCIATED PERMITS.** In order to construct and operate a sidewalk area dining facility, certain associated city permits or approvals may be required (e.g. building permit, extension of alcohol beverage premises license, health permit). Issuance of a sidewalk area dining permit does not alter the need to obtain any associated required permits.

### **115-33. Newspaper Stand Permits.**

**1. TEMPORARY STANDS.** The chief of police is authorized to issue permits for temporary newspaper stands to be maintained on the public street corners in the city which shall be used for the purpose of exhibiting for sale of magazines and/or Sunday or daily newspapers and magazines.

**2. REGULATIONS.** Such stands shall be of uniform color as designated by the chief of police and shall contain no advertisement whatsoever, shall be constructed of steel, shall be at least 3 feet from a fire hydrant and shall have the following dimensions: width, 40 inches closed, 72 inches wide open; depth 40 inches; height 72 inches. Said stands are to have two sides, a back and a cover on top. The location of such temporary newspaper stands shall be determined by the commissioner and shall be removed at the discretion of the mayor, the commissioner, chief of police or common council. All applicants for permits shall show to the satisfaction of the chief of police that the Wisconsin statutes regulating street trade have been complied with.

**115-33.5. Newspaper Vending Boxes.**

1. DEFINITIONS. a. "Box" means newspaper vending box.

b. "Commissioner" means the commissioner of public works.

c. "Department" means the department of public works.

d. "Newspaper vending box" means any self-service or coin-operated box, container unit or dispenser installed, used or maintained for the display, distribution or sale of newspapers, periodicals or other publications.

e. "Public right-of-way" means any area which has been deeded or dedicated for public use by pedestrians or vehicles.

2. REGULATIONS. a. Location. No newspaper vending box shall be located:

a-1. Within 2 feet of the face of the curb.

a-2. Within 3 feet of any fire hydrant, callbox, or other emergency structure.

a-3. Within 3 feet of any bus shelter or bench.

a-4. Within 3 feet of any traffic sign or signal.

a-5. Within 5 feet of any driveway.

a-6. Within that portion of a pedestrian area adjacent to a designated handicapped-parking space or commercial loading zone.

a-7. Where a paved pedestrian area does not extend to the curb, and the width of the continuous, undivided space for pedestrian travel would be reduced to less than 4 feet as a result of the placement of a newspaper vending box.

a-8. Where a paved pedestrian area extends to the curb and the width of the continuous, undivided space for pedestrian travel would be reduced to less than 7 feet as a result of the placement of a newspaper vending box.

a-9. On the landscaped area of the public right-of-way between the curb and sidewalk wherein street trees are typically planted.

a-10. Within, or within 2 feet of, the area bounded by the curb, the front entrance of a business establishment, and 2 straight lines which extend from each outer edge of the entrance door frame to the curb and are perpendicular to the curb.

a-11. Within 30 feet of a catch basin.

b. Concentration. Not more than 8 newspaper vending boxes may be placed on any one city blockface as defined in s. 295-201-63.

c. Design and Placement. c-1. A freestanding newspaper vending box shall face away from the roadway, with the rear edge of each box being located on a line parallel to the curb. Each freestanding newspaper vending box shall be bolted to the sidewalk or pavement. If a box is removed, the sidewalk or pavement shall be restored to a safe condition. No vending box that has been designed to be freestanding may be strapped or in any way attached to a city light pole or other city fixture.

c-2. Newspaper vending boxes that are not freestanding may be banded to aluminum and concrete poles. No newspaper box shall be banded to a steel street light pole. A newspaper vending box which is not freestanding may only be attached to a city-owned light pole which is more than 20 feet in height. The box shall be securely strapped to the pole so as to prevent movement of the box and shall be oriented so that customers can stand on paved sidewalk when accessing it. Not more than 2 boxes may be strapped to any single pole. A newspaper vending box strapped to a light pole shall not obscure any traffic sign or reflector or in any way obstruct the visibility of the sign or reflector. Fastening straps shall be made of stainless steel and shall be painted to match the color of the affected light pole. No chains or cables may be used. A newspaper vending box may be attached to a pole owned by any other entity provided permission from the entity is presented to the department prior to installation.

c-3. A newspaper vending box shall have a door which swings closed and latches after each opening.

c-4. A newspaper vending box shall not exceed 50 inches in height, 26 inches in width, and 20 inches in depth.

c-5. A newspaper vending box shall bear the name and mailing address of the owner of the box.

d. Maintenance. Newspaper vending boxes shall be kept clean, graffiti-free, and in proper working order at all times. The responsible party shall clean, repair, or remove graffiti within 5 working days of notification by the commissioner of the condition.

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**3. REMOVAL OF NEWSPAPER VENDING BOXES.** a. If a newspaper vending box is found in violation of this section, the department may remove the box. A box may be transferred to a designated holding place as follows:

a-1. Notice shall be given prior to removal of the box. The department shall notify the owner that if the box is not removed within 10 working days following mailing of the notice by first-class mail to the owner's last known address, the department may relocate the box to a designated holding facility. The address of this facility shall be included in any notification.

a-2. If, 10 working days following mailing of the notice by first-class mail to the owner's last known address, the box has not been removed from the location, the department may relocate the box to the designated holding facility.

a-3. A box may be held at the facility until the box's owner claims it or until the department disposes of it. The fee for retrieving a newspaper vending box from the designated holding place shall be as provided in s. 81-78-4. The department may dispose of boxes that have been held for 15 days or more at the designated holding facility.

b. When it is deemed necessary that a newspaper vending box be removed for the maintenance or improvement of the public right-of-way, including when the public right-of-way is temporarily occupied by abutting land owners for construction, demolition, or other lawful purpose as set forth in ch. 115, and in cases of special privileges granted by the city pursuant to ch. 245, the department may take the following steps toward removing the box:

b-1. The department shall notify the owner of the box in writing that within 10 working days following mailing of the notice by first-class mail to the address provided on the box that the box shall be either removed or transferred to another location that has been specified by the department.

b-2. If the owner of the box fails to remove the box from the location after 10 working days following mailing of the notice to remove the box from the location or transfer the box to another location that has been specified by the department, the department may follow the same procedure specified in par. a-2 and 3.

c. If the owner of a box fails to comply with any condition specified in sub. 2, the department may take the following steps to remove the box:

c-1. The department may order the owner of the box in writing to correct the violation within 10 working days following the mailing of the order by first-class mail to the address provided on the box.

c-2. If the owner of the box fails to comply within the time allotted by the department, the department may follow the same procedure specified in par. a-2 and 3.

d. If the department removes a newspaper vending box pursuant to this subsection, the owner of the box shall not place a different box at the location from which the department removed the box.

**115-33.6 Flower Pot Holders. 1. PERMIT REQUIRED.** No person shall attach or place a flower pot holder on any parking meter pole without having first obtained a permit from the commissioner and paid the fee as stated in s. 81-52.7.

**2. PERMIT APPLICATION.** Applications for permits shall be made on forms provided by the commissioner and shall include the following information:

a. The type of permit applied for.  
b. Name and address of the applicant.

c. The planned location of each flower pot holder to be installed, shown on a street map and listed by meter number and street location.

d. Evidence of liability insurance.  
e. Evidence of a performance bond.  
f. Such other reasonable and pertinent information that the commissioner may require.

g. A photograph, chart or facsimile of the flower pot holder, which denotes both the size and type of materials.

**3. ISSUANCE OF PERMIT.** If the commissioner finds that the information on the application is satisfactory, the commissioner shall issue a permit to the applicant.

**4. REGULATIONS.** No flower pot holder permitted under this section shall:

a. Be larger than 15 inches in diameter.

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b. Have a sponsorship placard sign larger than 5x10 inches or be more than 1/4" thick.

c. Have anything other than the sponsor's name and address on the placard or information concerning a major nonprofit event or festival.

**5. INSTALLATION.** After obtaining the necessary permit, a flower pot holder shall be attached to a parking meter pole in the following manner:

a. The placard sign shall be attached using a stainless steel clamp to secure it to the pole.

b. The placard sign shall include a tag with the name, address and phone number of the permittee.

c. The flower pot holder shall be attached to the pole by first placing both halves around the pole and securing them together using nylon nuts and bolts and then placing a stainless steel band around it to secure it to the pole.

**6. LIABILITY.** a. The applicant shall be primarily liable for any damages to persons or property caused by a flower pot holder.

b. A certificate of public liability insurance, covering all of the applicant's flower pot holder installations, in the sum to be determined by the commissioner, naming the city of Milwaukee as an insured party, must be filed with the commissioner at the time the application is filed. The commissioner must be notified in writing by the insurer at least 30 days in advance if the insurance policy is cancelled.

c. The city shall be held harmless and assigned from all loss, damage, injury or liability of any kind whatsoever due to the installation, operation, inspection, maintenance, repair or removal of any flower pot holder.

**7. PERFORMANCE BOND.** The applicant must file a performance bond in the sum of at least \$1,000 with the commissioner at the time the application is filed. The commissioner must be notified in writing by the insurer at least 30 days in advance if the insurance policy is cancelled.

**8. RESPONSIBILITY.** The applicant accepts all responsibility for the appearance, placement, maintenance, replacement or removal of any flower pot holder, and agrees not to attach a flower pot holder to a parking meter pole in such a manner so as to interfere with the operation or maintenance of the meter.

**9. REMOVAL.** a. The city reserves the right to remove or replace any parking meter pole, as necessary. Any cost of work involved in removing a flower pot holder shall be done at the applicant's expense.

b. The city also reserves the right to require the removal of any flower pot holder if it is deemed to be in the public's best interest, or if the holder does not comply with this section.

**115-34. Repair or Removal of Projection and Encroachments.** If privileges, projections, or encroachments permitted in ch. 245 become out of repair or unsafe, the commissioner of neighborhood services shall notify the owner or persons in charge of the abutting property to repair or make such things safe. If the notice is not complied with within 5 days from the receipt thereof, the commissioner of neighborhood services shall thereupon notify the commissioner who shall repair or remove the privileges, projections or encroachments either by contract or by city forces and shall certify the costs thereof in the proper manner to have them levied as special charges against the property, and, if the charge becomes delinquent, the proper officers of the city are authorized and directed to enter the charges onto the tax rolls for payment, settlement and collection as provided in ch. 19 of the city charter.

**115-35. Installation of Parklets.**

**1. DEFINITION.** In this section, "parklet" means a platform that is located in the parking lane of a street, is at the same level as the abutting sidewalk, and is intended to provide additional space and amenities for the adjacent business establishment and its patrons.

**2. PERMIT REQUIREMENTS.** No person shall install a parklet in the public right-of-way without first obtaining all of the following:

a. A permit for occupancy of the public way, as required by s. 115-10. The applicant shall also pay the applicable fees and deposits set forth in ss. 81-83, 81-102 and 115-10.

b. Any applicable alcohol beverage license, as required by ch. 90, including but not limited to a permanent or temporary extension of premises.

c. A sidewalk area dining permit, if required by s. 115-32.6. If a sidewalk area dining permit has already been issued for the adjacent business establishment, the permit

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holder shall report the appropriate changes to the permit or the plan or operation, as required by s. 115-32.6-5.

### **3. ADDITIONAL REQUIREMENTS.**

a. A parklet may be installed in the public right-of-way only between March 15 and November 15. However, the applicant may petition the commissioner of public works for permission to install the parklet before March 15, but no earlier than March 1, weather permitting.

b. A parklet shall not project more than 6 feet into a roadway, as measured from the outside edge of the curb, unless otherwise authorized by the commissioner of public works.

c. A parklet may occupy only the portion of the roadway that is directly in front of the applicant's property or building or, in the case of a building with multiple first-floor occupants, in front of the applicant's portion of the building frontage. A business improvement district or neighborhood association may petition the commissioner of public works for permission to install a parklet in its defined district or neighborhood with the permission of adjoining property owners.

d. The parklet shall comply with all parklet design and safety requirements promulgated by the commissioner of public works, including, but not limited to, placement of wheel stops at both approaching and departing traffic sides of the parklet, a reflective traffic hazard marker at the approaching traffic side, and a reflective flexible bollard at the departing traffic side.

e. No building permit shall be required for the installation of a parklet.

**115-36. Heated Pavements. 1. PERMISSION.** Pipes or conduits for warming pavements may be placed within or below pavements in a public way when installed or maintained as regulated in this chapter and upon the condition that the right to install or maintain such installations may be revoked by the commissioner. Such installations shall not interfere with any public work or improvements, and the city in granting the right to install said pipes or conduits reserves the right to install municipally owned utilities under, upon or over the heated pavement sections.

**2. IDENTIFICATION.** The surface of all heated pavement hereafter constructed shall bear identification marks as required and regulated by the commissioner.

**3. REMOVAL.** The owner of the property shall remove at his or her own expense all heated pavements and all appurtenances thereto within the public way whenever public necessity or public safety require when ordered by the commissioner, and all pavements shall be restored in accordance with the current rules regulations or specifications or as directed by the commissioner, without claim for damages by reason of such removal or pavement restoration. If the order to remove a heated pavement is not complied with within 30 days of receipt thereof, the commissioner may remove the heated pavement and all appurtenances thereto within the public way either by contract or by city forces, and shall certify the costs thereof in the proper manner to have them levied as special charges against the property, and, if the charges become delinquent, the proper officers of the city are authorized and directed to enter the charges on the tax rolls for payment, settlement and collection as provided in ch. 19 of the city charter.

## **115-37. Underground Lawn Sprinkling System.**

**1.** Underground sprinkling systems may be installed within a public way when installed and maintained as regulated in this chapter and upon condition that the right to install or maintain such installation may be revoked by the commissioner. Such systems shall not interfere with any public works or improvements and shall be installed and operated in such a manner so as not to create a nuisance or hazard to pedestrians and vehicles using the public ways, and shall comply with all state statutes and city ordinances.

**2.** The property owner shall at his own expense remove sprinkling systems within the public way when so ordered by the commissioner. Pavements shall be restored in accordance with s. 115-8. If the order to remove a sprinkling system from the public way is not complied with within 30 days of receipt thereof, the commissioner may cause the removal of said sprinkling system and shall certify the costs thereof in the proper manner to have them levied as special charges against such property, and the proper officials of the city are authorized and directed to enter such charges on the tax rolls.

**115-38. Mail Collection Boxes.** 1. PRIVATE MAIL BOXES. Where direct to door postal deliveries are not made, private mail boxes may be placed adjacent to roadway pavements at locations designated by the United States postal department upon condition that said mail boxes shall be removed at the owner's expense when so ordered by the commissioner of postal authorities, and do not interfere with the use of or obstruct the street or sidewalk.

2. UNITED STATES POSTAL DEPARTMENT BOXES. Facilities for the collection and distribution of mail may be placed within public ways at the discretion of the United States postal department, provided the same do not interfere with the use of or obstruct the street or sidewalk.

**115-39. Erection of Telephone Booths on Public Property.** 1. No public utility, as defined in s. 196.01, Wis. Stats., which owns, operates or has under its management or control any plant or equipment, or part of a plant or equipment, within this state for the conveyance of telephone messages, shall erect, maintain or operate any public telephone booth on public property, including any permanent fixture upon which or within which a telephone is provided, except in accordance with this section.

2. Application for permission to install a public phone booth shall be made on forms provided by the department of public works. Such application shall state the name and address of the applicant and, if it be a corporation, signed by the proper officer or agent thereof. Such application shall have attached to it a sketch showing the proposed location of such phone booth with relation to the street lines and the building lines of adjacent buildings.

3. The applicant shall pay to the city treasurer the sum of \$10 and a duplicate copy of the receipt of the city treasurer shall be attached to the application. Such fee is to cover the costs incidental to the regulation of the placing of public phone booths and the processing of such application. The applicant shall save the city harmless from all liability for damages and from all claims, actions and causes of action, and liens of any kind whatsoever, and from all costs, charges and expenses incurred in defending such suits or actions which may in any way arise out of the installation and maintenance of said booth or result therefrom.

4. The department of public works shall secure on said application the approval of the city engineer, and shall approve said application if the plans for such public phone booths conform to all ordinances and regulations of the city. No application shall be granted unless said booth is proposed to be lighted at applicant's expense and unless adequate access walks leading from the public sidewalk to said phone booth are to be provided at the expense of the applicant.

5. After approvals have been secured, the department of public works shall issue a permit for each booth so approved. Such permit may be revoked by the city at any time upon giving at least 30 days written notice to the public utility. The public utility may remove any booth on public property at any time upon giving at least 30 days written notice to the city. In the event of any such removal, the permit for such location shall be cancelled.

6. The public utility shall compensate the city for permitting said installation, on at least a quarterly basis, by payment of a commission at the same rate paid by the public utility to all other owners of property on which public booths are located, said payments to be forwarded to the city treasurer, who shall place said moneys in the general fund.

7. There shall be posted inside of or visibly upon the booth in a conspicuous space and in large type the telephone numbers of the police department and fire department together with a notice that "911" may be called in an emergency without customer charge by direction of the U.S. federal communications commission.

8. Upon a 48 hour notice in writing that a telephone booth including any permanent fixture upon which or within which a telephone is provided has been found to be out of compliance with this section, the telephone booth may be removed by the department of public works at the expense of the public utility if the telephone booth is not brought into compliance.

**115-42. Special Assessment Procedure.**

1. STATE COMPLIANCE. All special assessments levied by the city of Milwaukee for public work or improvements shall be made in accordance with s. 66.0703, Wis. Stats., and this section.

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**2. COUNCIL APPROVAL.** a. Public works shall be initiated by a preliminary resolution which shall be submitted to the common council by the commissioner as required by s. 66.0703(4), Wis. Stats.

b. Upon adoption of the preliminary resolution the city engineer shall prepare plans, estimates of cost, and other information as may be required.

c. After the plans and the estimate of the total cost have been prepared by the city engineer, the commissioner shall prepare the report required in s. 66.0703(5), Wis. Stats. All city agencies, departments and officials shall assist the commissioner in preparing the report. The commissioner shall file with the city clerk the report required in s. 66.0703(5), Wis. Stats.

**3. NOTICE OF HEARING.** The commissioner shall prepare and mail the notice of public hearing in conformance with s. 66.0703(7)(a), Wis. Stats.

**4. COMMITTEE HEARING.** The hearing required by s. 66.0703(7)(a), Wis. Stats., shall be held before an appropriate committee of the common council. The chairman of said committee may appoint, on a temporary basis, any other member or members of the council to serve on said committee during the absence of any member thereof. After the hearing, the committee may take action approving, modifying, or disapproving of said report or final resolution or both, and may make recommendation concerning the same to the council. The council may thereafter take action according to s. 66.0703(8), Wis. Stats.

**5. PUBLICATION.** Upon adoption of the final resolution directing that the work or improvement be carried out in accordance with the report as finally approved and that payment be made as therein provided, the city clerk shall publish the final resolution required by s. 66.0703(8), Wis. Stats. The commissioner shall be responsible for the mailing of said final resolution to the owner(s).

**6. COMMISSIONER TO PROCEED.** After the adoption of the final resolution, the commissioner shall immediately proceed to make said public improvement in accordance with the said final resolution.

**7. TO NOTIFY CITY TREASURER.** Upon the completion of the work and the acceptance thereof, the commissioner shall transmit to the treasurer's office a copy of the department of public works' assessment list of

the work performed. An invoice shall be prepared in the correct amount for each property and mailed to all interested persons, if with reasonable diligence their names and addresses may be obtained.

**8. PAYMENT TERMS.** Any person required to pay for work performed under this section shall have 2 options for payment:

a. After adoption of the final resolution any person may make a prepayment to the city treasurer in advance of the issuance of an invoice in the correct amount for his or her property. The comptroller shall cause such prepayment to be posted to a trust account established by the comptroller in the permanent improvement fund. After the invoice in the correct amount is issued, the comptroller shall apply the funds on account from the permanent improvement fund to the payment upon the invoice, and the treasurer shall cause a credit thereon to be entered upon the invoice. Upon request of the person who made the overpayment within 2 years of the date of the initial billing, excess funds resulting from such overpayment shall be refunded to the payer. Any deficiency in an account shall be invoiced by the treasurer to the property owner.

b. Upon receipt of an invoice, any person may pay the invoice, without interest, by remitting the payment to the city treasurer within 45 days of the date of the invoice. In the event such invoices are not paid in full within the specified time, they shall be placed upon the tax roll under the following terms and conditions and in the following manner:

b-1. If the total amount of the principal of the invoice remaining unpaid is the sum of \$125, or over, it shall be spread equally over the first available and next succeeding 9 tax rolls.

b-2. If the total amount of the invoice remaining unpaid is less than \$125, the amount shall be placed on the first available tax roll.

b-3. In addition to the principal remaining, interest shall be added commencing after the billing date of the invoice. A 45-day grace period for payment shall be granted from the date of billing, and if not paid within the period, interest shall be charged on a restorative basis to the date of the billing. The interest rate charged shall be set annually as of the last business day in June as an approximation of the prime rate plus 1%. For the purpose of this subdivision, the prime rate shall be defined as the Wall Street Journal prime rate which is

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published in the Wall Street Journal. The monthly rate of interest shall be computed by dividing such average prime rate plus 1% by 12 rounded to the nearest 100th percent. The comptroller shall review such interest rate annually and shall notify the department of public works of such interest rate. The interest rate shall become effective as of the public hearing date in September at which annual assessment rate changes are submitted to the appropriate committee of the common council as prescribed by s. 115-43. The interest rate in effect at the time of the public hearing held by the appropriate common council committee for an individual project shall be fixed for the 10-year duration of the installment payments.

b-4. After being placed on the tax roll in annual installments or otherwise, such amounts of special assessments shall be paid within the time allowed for the payment of general property taxes. If the taxpayer fails to pay a special assessment within the time allowed for payment, it shall become delinquent and shall be treated in the same manner and subject to the same laws as a delinquent general property tax.

9. **PETITION AND WAIVER OF HEARING.** As provided by s. 66.0703(7)(b), Wis. Stats., the common council may levy and assess the whole or part of the cost of any municipal improvement whenever notice of hearing is waived in writing by all the owners of property affected by such special assessment. In addition to the requirement of sub. 2, the commissioner shall attach said signed waiver of public hearing to either the preliminary resolution or the report in cases where a preliminary resolution was previously approved by said council.

**115-42.5 Traffic Calming Installations.**

1. **PURPOSE.** It is the purpose of the common council to establish a traffic calming program in the city that incorporates traffic calming installations within new construction and repair projects where appropriate and effective, and to otherwise promote public health, safety and the peaceful enjoyment of neighborhoods and residential areas by encouraging the initiation of traffic calming installations. It is furthermore the purpose of this section to provide property owners a process for initiating public works for the construction or placement of traffic calming installations. It is the intent of the common council that this process supplement

and not replace other processes for initiating public works.

2. **PETITION.** a. By Property Owners.

a-1. Upon submission to the commissioner of a petition of support for traffic calming signed by at least 50% of the owners of parcels in the affected area as determined by the commissioner, a preliminary resolution shall be prepared and submitted as provided in s. 115-42-2.

a-2. The petition submitted pursuant to this subsection shall substantially conform to a sample petition to be prepared and approved by the commissioner and shall include the name of the owner, the address of the parcel or parcels abutting the block or alley, address of the owner if different, date of signature, a clear statement that a traffic calming installation is requested, and any other information the commissioner determines to be necessary or appropriate.

3. **COUNCIL APPROVAL.** The procedures provided in s. 115-42 shall apply to the process for approval of the construction or placement of traffic calming installations.

4. **SPECIAL ASSESSMENT.** Upon adoption of a resolution by the common council directing the construction or placement of a traffic calming installation sought initially by petition to the commissioner under sub. 2, the recovery ratio provided in s. 115-43-2-a-4 shall be applied to those properties or parcels abutting the street or alley within which the installation is placed or constructed, as determined by the commissioner.

**115-43. Recovery Rates for Assessable Improvements.**

1. **PURPOSE.** The purpose of this section is to establish minimum recovery rates for assessable improvements to recover a portion of actual costs incurred for assessable improvements. Costs for assessable improvements include construction costs, and design, engineering and indirect costs attributable to improvements.

2. **RECOVERY RATES AND RATIOS.** Rates shall be updated by the commissioner of public works and shall be based on prior years actual cost experience pursuant to sub. 1. The commissioner shall present updated assessment rate changes to the appropriate committee of the common council in September for information purposes for implementation. Recovery ratios for assessable improvements shall be as follows:

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- a. New Construction.
- a-1. Paving - 90%.
- a-2. Sanitary Sewer - 90%.
- a-3. Storm Sewer Nominal Size - 70%.
- a-4. Placement of Traffic Calming Installation - 33%.
- a-5. Water Main - 90%.
- a-6. Water Main Suburban - 100%.
- b. Reconstruction.
- b-1. Alley - 50%.
- b-2. Driveway - 90%.
- b-3. Walk - 50%, except for those sections of walks damaged by city trees which shall have a recovery ratio of 0%, provided however, that this provision should only apply to scattered site repairs.
- b-4. Subdivision 1 shall apply to all alley reconstruction projects approved by the common council after May 3, 2011.

### 115-44. Deferred Special Assessments.

1. DEFINITIONS. In this section:
  - a. "Household income" means the gross income of the applicant and the applicant's spouse, including all income reported for state income tax purposes as well as social security, veteran's benefits and pensions, other pensions and annuities, interest on securities, worker's compensation, support payments, aid to families with dependent children, federal food stamps, general relief, supplemental security income, scholarships, fellowships or any other source of financial compensation.
  - b. "Special assessment" means any assessment levied against real property for the purpose of defraying part or all of the cost of a specific physical improvement which will benefit the property, including, but not limited to a new or reconstructed sidewalk, curb, gutter, sod, alley, driveway, sanitary sewer, water main or lateral. For purposes of this section this does not include special charges levied for, but not limited to, snow or weed removal, delinquent water accounts, benefit assessments under ch. 32, Wis. Stats., razing of condemned buildings, nuisance abatement or special privilege fees.
2. PAYMENT AUTHORIZED. The common council may direct the city treasurer to pay all or any portion of any special assessments placed upon the current or next tax roll against property owned and inhabited by

indigent persons as provided in sub. 3, including a 6% annual interest rate. Funds to pay for deferred special assessments approved by the common council shall be charged to the special purposes account established for this purpose.

**3. ELIGIBILITY.** Applicants for deferred assessments shall meet the following eligibility requirements:

- a. Be at least 18 years of age at the time of application.
- b. Have a maximum annual household income of \$25,000.
- c. Not be claimed as a dependent on anyone else's federal income tax return for the last full year preceding the date of application.
- d. Be the occupant of a dwelling located on the real property to which the deferment would apply.
- e. Not owe any delinquent taxes on the dwelling.
- f. Own no real property other than the property to which the deferment would apply.

**4. APPLICATIONS.** a. Applications for deferment shall be made upon a form provided by the department of public works which shall include the name, address, social security number, age, employment status, sources of income, assets, liabilities and other pertinent information of each applicant. Financial information shall be confidential. The applicant shall also state the reason for applying for deferment.

b. Each application shall be reviewed by a 3-member committee appointed by the mayor and confirmed by the common council. All committee members must be city residents and own property within the city. Members shall serve 3-year terms. At the committee's request, the city comptroller, city treasurer and commissioner of public works may assist the committee in making its recommendations to the common council. The committee shall periodically review eligibility requirements for deferments and make any recommendations to modify the requirements to the common council.

**5. TERMINATION OF DEFERMENTS.** The committee established under sub. 4 shall review annually deferments granted under this section. If the eligibility requirements in sub. 3 are no longer met, the committee shall recommend to the common council that deferments be terminated. Upon termination of a deferment, the committee shall specify the

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repayment terms of the deferred special assessment. The terms of repayment may be as provided in s. 115-42-8.

**115-45. Selling Articles from Parked Vehicles.**

1. REGULATIONS. To help protect the safety of pedestrians and drivers, to help relieve traffic congestion on certain public highways and sidewalks within the city and to provide for the freer flow of traffic, both vehicular and pedestrian, on such highways and sidewalks, it is declared to be unlawful for any operator to park any vehicle on any public highway or sidewalk enumerated specifically or by area or classification in this section during the periods specified, or on any public highway or sidewalk within 300 feet thereof, during such periods for the purpose of offering for sale or selling any articles of any nature whatsoever in a public manner from such vehicle.

2. LOCATIONS WHERE SELLING PROHIBITED. a. Near Schools or Residences

a-1. Within 300 feet of any entrance to any grade, junior high or high school or combination thereof while such school is open to students.

a-2. Adjacent to blocks containing residential premises; provided, however, that vehicles shall not be considered in violation of this provision if:

a-2-a. They stop for no more than 2 hours in any single block and such stops are otherwise in compliance with posted time limits and are separated by a 6 hour period, nor

a-2-b. If special permission is granted (which special permission shall not be unreasonably withheld) in writing for a specified vehicle for a specific location, date and time period by the public safety and health committee of the common council.

b. From the Median or Safety Island. Except when the roadway has been closed to traffic by common council resolution and the vehicle is otherwise in compliance with this section.

c. Specific Streets and Highways Where Selling Prohibited. The public highways, sidewalks and areas to which this section applies may be found in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

3. TIMES WHEN SELLING PROHIBITED. a. The sale of items from parked vehicles shall be prohibited as follows:

a-1. Between the hours of 3 a.m. and 6 a.m. Monday through Friday.

a-2. Between the hours of 3:30 a.m. and 6 a.m. Saturday and Sunday.

a-3. As established by a plan of operation approved by the common council.

b. This prohibition shall not apply on January 1, Memorial Day, Juneteenth, the 3rd and 4th of July, Labor Day, on city streets adjacent to State Fair Park during the run of the Wisconsin State Fair or during any other specific dates specified by the common council by resolution.

4. PENALTY. Any person being the operator of any vehicle violating this section shall upon conviction thereof be punished by a fine of not less than \$5 nor more than \$50 and in default thereof shall be imprisoned in the house of correction of Milwaukee county for not less than 10 days and not more than 90 days.

**115-47. Railroad Cars Not to Obstruct Street.**

No corporation operating, or person having charge of any railroad car, engine or tender, or any railroad or any street railway train or car in the city shall suffer any railroad car, engine or tender or any railroad or any street railway train, or car operated by it, or under his control or charge to stand, so slowly move, or in any other manner remain in any street in the city so as to obstruct the free passage of vehicles or traffic along such street and across such railroad track more than 5 minutes at any time. It shall be unlawful for any street railway train or car to stop within an intersection or on a crosswalk for the purpose of receiving or discharging passengers.

**115-48. Penalty, General.** Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not less than \$25 nor more than \$250 for each violation, and upon default of payment thereof, be punished by imprisonment in the house of correction for a period of not more than 60 days. Where the violation consists of failing to do a required act, each day shall be regarded as a separate offense.

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\*For legislative history of chapter 115,  
Contact the Municipal Research Library\*

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