

**INSTRUCTION SHEET  
ADDITIONS TO  
MILWAUKEE CODE OF ORDINANCES  
VOLUME 2**

**SUMMARY**

This supplement incorporates changes to Volume 2 of the Milwaukee Code of Ordinances enacted by the following Common Council file:

220190      A substitute ordinance relating to accessible entrances for buildings pre-dating the Americans with Disabilities Act.

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<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
Remove <u>old</u> MEMO (Suppl. #325)					
				i-ii v-vi	i-ii v-vi
245-4-30	cr	220190	8/18/2022	413-426	413-422
245-4.7	rc	"	"	"	"
245-13.5	cr	"	"	"	"

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For questions concerning the content of the Milwaukee Code or Ordinances contact the Municipal Research Library, (414) 286-2297.

Abbreviations:

am=amended  
cr=created

ra=renumbered and amended  
rc=recreated

rn=renumbered  
rp=repealed



**CITY OFFICIALS**

**2022 to 2024**

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Cavalier Johnson

**Council President**  
Jose G. Perez

**The Common Council**  
(By Aldermanic District)

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2. VACANT
3. VACANT
4. Robert J. Bauman
5. Nikiya Dodd
6. Milele A. Coggs
7. Khalif Rainey
8. JoCasta Zamarripa

9. VACANT
10. Michael Murphy
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12. Jose G. Perez
13. Scott Spiker
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**Deputy:** Dana Zelazny

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**City Treasurer**  
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**Municipal Judges**

Branch 1  
Valarie Hill

Branch 2  
Derek Mosley

Branch 3  
Phil Chavez

## PREFACE

In 1986, volume 2 of the Milwaukee Code of Ordinances was printed in its current format of an updateable looseleaf. As changes to these ordinances are passed by the Common Council, the Legislative Reference Bureau will issue replacement pages for this book. Thus, it can be a current and reliable resource to its user.

Volume 2, which contains chapters numbering 200 to 299, contains building and zoning regulations. Other looseleaf volumes include Volume 1 (Regulatory Ordinances), Volume 3 (Administrative Ordinances), and the City Charter.

The numbering system for the Milwaukee City Charter and Code of Ordinances is patterned on that used for the Wisconsin Statutes (except for the use of dashes in place of parentheses) and is as follows:

Chapter	Section	Subsection	Paragraph	Subdivision	Subparagraph
70	10	3	a	4	b

If there are questions regarding the numbering system, or the correct method of citation, please contact the Legislative Reference Bureau.

Keith Broadnax, Manager  
Legislative Reference Bureau  
July 2022

**MEMO**

If all supplements have been properly inserted, this book contains all actions of the Common Council through July 28, 2022.

7/28/2022  
Suppl. #326



**CHAPTER 245  
ENCROACHMENTS, PROJECTIONS AND  
SPECIAL PRIVILEGES**

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**245-1. General Regulations.** 1. Except as otherwise regulated in this chapter, no part of any building, structure, addition, alteration or construction hereafter erected shall project beyond a street line.

2. Structures, appendages or architectural ornamentations projecting beyond a street line as regulated and permitted by this chapter shall be constructed of materials as required in ch. 251 and as further regulated herein. The projection of any structure, appendage or ornamentation shall be the distance measured horizontally from the street line to the outermost point of such structure, appendage or ornamentation.

3. No person shall erect, place or store any material, equipment, shed, roof, fence or temporary walk, guard, device or any other structure on a public thoroughfare, nor shall any person move any building or structure onto, across or over any public thoroughfare without first obtaining a permit therefor from the commissioner of public works.

4. Permits and permit fees for permissible projections shall be as regulated in s. 200-33.

5. There shall be no permitted projections which limit the clear paved sidewalk width to less than 5 feet.

6. No permission shall be given for projections into the public right-of-way where there is no paved public sidewalk, unless the encroachments are otherwise allowed by code.

**245-2. Structural Supports.** All projections permitted in this chapter, except footings and their supports, shall be so constructed that their removal may be made without causing the building or structure to become structurally unsafe.

**245-3. Maintenance and Removal.** 1. All construction for which a permit is hereafter granted pursuant to the regulations of this chapter by the commissioner of city development for projections beyond the street line, or by the commissioner of public works permitting the occupancy or use of public property or public thoroughfares, and any special privilege granted by the common council pursuant to s. 245-12, and all other existing projections or encroachments shall be maintained in good state of repair and in a safe condition.

2. Such construction shall be removed and the permit revoked whenever public necessity or public safety so requires when ordered by the commissioner of neighborhood services, the commissioner of public works, by resolution of the common council or by authorities of the state of Wisconsin.

3. No change or enlargement shall be made to any such existing projection or encroachment except in conformity with the regulations of this chapter.

**245-4. Permissible Projections and Encroachments.** Projections and encroachments beyond the street line other than those listed in this section may be permitted by special privilege granted by the common council under s. 245-12. Under the conditions prescribed in this chapter and within the

## **245-4-1 Encroachments, Projections And Special Privileges**

limitations regulated herein, the following projections and encroachments beyond a street line are permitted:

1. Main cornices or roof eaves projecting not more than 3 feet, provided they are a minimum of 14 feet above the adjacent established grade.

2. Cornices of porches and false mansard-type structures projecting not more than 15 inches, provided they are a minimum of 10 feet above the adjacent established grade.

3. Pediments, nonstructural columns or pilasters, and similar architectural projections, including bases and capitals, projecting not more than 8 inches.

4. Masonry projections, including but not limited to quoins, belt courses, lintels, sills, base courses and rustications, projecting not more than 4 inches.

5. Footings or walls and their supports at street lines projecting not more than one foot, provided the tops of the footings are a minimum of 4 feet below the adjacent established grade. Projections beyond the one-foot line shall be subject to the approval of the commissioner of public works.

6. Emergency exit doors, when open, projecting not more than 48 inches into an alley. All other doors when open may project not more than 36 inches.

7. Fire escapes and balconies to smoke-proof stair towers or horizontal exits projecting not more than 7 feet. All other balconies may project not more than 6 feet. Fire escapes and balconies shall be a minimum of 10 feet above the adjacent established street walk grade and 14 feet above alley grade.

8. Oriel or bay windows projecting not more than 24 inches, provided that the lowest portion of the window is a minimum of 10 feet above the adjacent established grade. No oriel or bay window that projects into a public right-of-way shall exceed 10 feet in width. Oriel and bay windows shall not be permitted to project into a public right-of-way which is less than 30 feet in width.

9. Exterior hose connections for fire protection equipment, in approved locations, projecting not more than 8 inches, provided that such connections are a minimum of 1 1/2 feet but not more than 3 feet above the adjacent established grade.

10. Street walk basements or sidewalk vaults when constructed and located as regulated in s. 245-5.

11. Movable awnings when constructed and located as regulated in s. 245-6.

12. Awnings, canopies and sunshades when constructed and located as regulated in s. 245-7.

13. Fixed awnings in the Historic Third Ward projecting beyond the street line under s. 245-7-9.

14. Marquees when constructed and located as regulated in s. 245-10.

15. Remodeled building facades encroaching a maximum of 6 inches.

16. Temporary encroachments and use of public thoroughfares during erection, construction, enlargement, alteration, repair, renovation, moving, removing or demolition of buildings and structures when in compliance with the regulations of ch. 228 and s. 245-11.

17. Signs or advertising devices when constructed as regulated in ch. 244.

18. Roof gutters and conductors projecting not more than 8 inches into a public alley. Roof gutters and conductors may not project into a public street.

19. The cutting of street curbs, the installation of driveways and any construction therewith, when in conformity with rules and regulations of the commissioner of public works and permitted by the commissioner of public works.

20. Electrical or gas lighting fixtures attached to the exterior walls of buildings or structures, in approved locations, projecting not more than one foot, provided that the lowest portion of the fixture is a minimum of 7 feet but not more than 10 feet above the adjacent established grade. The fixtures, when more than 10 feet above grade, may extend 5 feet into the public right-of-way and shall be a minimum of 14 feet above grade when projecting into an alley.

21. Security cameras attached to the exterior walls of buildings or structures projecting not more than 5 feet into the public right-of-way, provided they are greater than 10 feet above the adjacent established grade. The fixtures shall be a minimum of 14 feet above grade when projecting into an alley.



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22. Sewer sampling manholes, catch basins, water meter pits, sprinkler pits and similar underground structures when in compliance with s. 245-5.

23. Monitoring wells when associated with a remediation project recognized by the state of Wisconsin.

24. Flagpoles for the flying of federal, state, county or municipal flags only, attached to the exterior walls of buildings or structures, projecting a distance not closer than 3 feet from the curb line, provided the flag and pole have at least 8 feet clearance above the street walk.

25. Permissible projections, obstructions and encroachments as provided by s. 115-32.

26. Items installed in the public right-of-way as part of a streetscape for which a maintenance agreement, approved by the common council, has been fully executed.

27. Projections and encroachments for one- and 2-family residential properties as provided in s. 245-4.5.

28. Decorative landscaping edging in the public right-of-way as regulated in s. 116-54.

29. Approved appliances and devices used in connection with equipment not otherwise regulated herein, in approved locations, projecting not more than one foot, provided the lowest portion thereof is a minimum of 10 feet above the adjacent established grade.

30. Encroachments to create accessible entrances as provided in s. 245-4.7

**245-4.5. Encroachments for One- and 2-Family Residential Properties.**

1. DEFINITION. "Encroachments for one- and 2-family residential properties" means objects or structures placed in the public right-of-way that are approved by the commissioner of public works and that are not otherwise permitted by s. 245-4.

2. GENERAL REGULATIONS. All encroachments for one- and 2-family residential properties shall comply with the following guidelines:

a. Plans shall be submitted to the commissioner of public works for approval and issuance of a permit prior to applying for any other necessary permits.

b. All necessary permits shall be obtained prior to construction of a proposed encroachment.

c. Any proposed encroachments shall conform to this section, as well as any other requirements of the code. If a conflict exists, the more restrictive requirement shall govern.

3. PROJECTION. a. If a paved public sidewalk is present, encroachments may be located between the sidewalk and the street line and may project to the edge of the sidewalk.

b. If no paved public sidewalk is present, encroachments may not project into the public right-of-way unless specifically allowed by s. 245-4.

c. Encroachments may not project into an alley, pedestrian way or bicycle way unless otherwise allowed by the code.

4. APPLICATION. The owner of a property under consideration for construction and installation of a public way encroachment shall submit plans to the city engineer for review and approval. The grantee shall subsequently submit plans and obtain permits from the commissioner of public works and commissioner of city development, as necessary, for any installation.

5. CONDITIONS OF PERMIT. The owner of a public way encroachment for one- or 2-family residential property shall:

a. Become primarily liable for damages to persons or property by reason of the granting of a permit for the encroachment.

b. Remove or modify the encroachment whenever the city determines that the public convenience would be enhanced by such removal or modification as provided in s. 115-32-2. The owner shall not be entitled to damages relating to the removal or modification.

6. SPECIAL PROVISIONS. Any encroachment for one- or 2-family residential property as herein regulated, in existence as of June 12, 2010, which meets the requirements of sub. 3, shall be allowed to remain in its existing location until such time that removal of the encroachment is ordered pursuant to sub. 5. The owner of the existing encroachment shall be deemed primarily liable for damages to persons or property by reason of the maintenance of the existing encroachment.

**245-4.7. Encroachments to Create Accessible Entrances for Buildings Pre-dating Adoption of the Americans with Disabilities Act.**

1. DEFINITION. In this section, "Encroachment" means a ramp, chairlift, or other structure required to create an accessible

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entrance, as defined by the Americans with Disabilities Act and applicable building codes adopted by the state of Wisconsin, which is placed in the public right-of-way and approved by the commissioner of public works and the commissioner of the department of neighborhood services to serve a building or structure that existed prior to July 26, 1990, the date the Americans with Disabilities Act was adopted.

**2. GENERAL REGULATIONS.** Every encroachment to create an accessible entrance shall comply with the regulations of this section.

**3. ACCESSIBLE PATHWAY.** An encroachment shall maintain the required 5-foot width clearance of the accessible pedestrian pathway or turning radius size of curb ramp landings within the public right-of-way.

**4. PROJECTION.** No encroachment may project into an alleyway.

**5. UTILITIES AND OTHER EXISTING INFRASTRUCTURE.** The cost of protecting, altering, or changing the location of any city-owned utilities to permit construction of an encroachment shall be paid by the owner of building or structure to be served by the encroachment.

**6. APPLICATION.** The owner of a property under consideration for construction and installation of an encroachment shall submit plans to the commissioner of public works for review and to obtain permits. The property owner shall also submit plans and obtain permits from the commissioner of the department of neighborhood services, as necessary, for any installation.

**7. CONDITIONS OF THE PERMIT.** The owner of the encroachment shall:

a. Become primarily liable for damages to persons or property by reason of the granting of a permit for the encroachment.

b. Remove or modify the encroachment whenever the city determines that the public convenience would be enhanced by such removal or modification as provided in s. 115-32-2. The owner shall not be entitled to damages related to the removal or modification.

**245-5. Street Walk Basements. 1. GENERAL REGULATIONS.** a. Street-walk basements entirely below a street walk and adjoining a building or structure may be constructed, maintained, occupied and used in connection

with such building or structure for any purposes not inconsistent with this code, other laws or ordinances, or rules regulating the construction, maintenance, occupancy and use of such basements, on condition that the right to maintain, occupy and use such basements may be revoked by the city at any time. When an order is issued for the removal of such basement, the owner of the building or structure shall execute all construction work and assume all costs and expenses attendant therewith. Such street-walk basements shall not interfere with any public work or improvement, and the city in granting a permit to construct such basements, reserves the right at any time to construct under or within such basements municipally owned utilities for the public service.

b. Boilers, engines or machinery using steam, gas or explosive mixtures, or tanks containing volatile flammable liquid, shall not be located in such basements or under any public thoroughfare.

**2. DESIGN.** a. Street-walk basements may extend beyond the street line for a distance as approved by the commissioner of public works, but not beyond the curb line. Such basements shall be of approved construction and shall be provided with a roof or top of noncombustible material, capable of carrying a live load of 250 pounds per square foot. The top surface of the street walk shall be at a grade as established by the city and shall be constructed of concrete or other approved material with a nonslippery surface. No glass in such street walk surface shall be permitted.

b. The walls of such basements shall be constructed of solid masonry units, plain or reinforced concrete, and shall be of a strength and thickness to resist safely lateral pressure from the adjacent earth, and to support vertical loads. Footings for such walls shall be designed and constructed to maintain a safe load on the soil and shall not project beyond the curb line.

**3. OPENINGS IN STREET WALKS.**

a. Openings in street walks shall be permitted when protected with approved nonslippery metal covers or gratings, as herein regulated, flush with the top surface of the street walk, designed to support a live load of 250 pounds per square foot. Such covers or gratings shall be maintained normally closed and secured in place, and when open shall be equipped with approved guards to prevent accidents. Such

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openings, when used for ventilating purposes and located in street-walk basements, shall be protected with gratings or covers having openings therein not more than 3/4 inch in width, and shall be equipped with approved pans or screens with mesh openings therein not in excess of 1/4 inch. Electric transformer vaults need not be equipped with approved pans or screens with mesh openings.

b. Except as otherwise required or approved by the commissioner of public works, the location and size of openings in street walks shall be as follows:

b-1. For existing elevators and for conveyors or chutes, openings shall be located with not more than 2 feet of space from the face of the curb. The length of such openings on the side parallel to the curb shall not exceed 8 feet. The width of such openings shall not exceed 1/3 the distance from the face of the curb to the street line, but not more than 6 feet in any case. New elevator installations shall not pierce a sidewalk or be located in an area used by people or vehicles as a place of travel.

b-2. For the delivery of coal or other materials, openings shall be located with not more than 2 feet of space from the face of the curb, and shall not exceed 8 square feet in area.

b-3. For ventilation or other approved purposes, openings shall be located with not more than 2 feet of space from the face of the curb on the street line and shall not exceed 8 square feet in area.

c. If upon inspection the department finds any cover or grating which appears defective or unsafe for any reason whatsoever, the commissioner may order that a critical examination be performed by a registered architect or registered structural engineer employed by the owner or the agent. The registered architect or registered structural engineer shall submit a written report showing the structural condition of the cover or grating. Two copies of the report shall in turn be submitted to the commissioner. One copy of the report shall, if satisfactory to the commissioner, be returned to the owner or agent bearing a stamp of approval signed by the commissioner. All defects noted on the written report submitted by the registered architect or registered structural engineer shall be corrected by the owner within a time period mandated by the commissioner. A written report showing that

all defects noted in the prior report have been corrected shall be submitted in duplicate to the commissioner by a registered architect or registered structural engineer. One copy of the report shall, if satisfactory, be returned to the owner or agent bearing a stamp that the correction report has been placed on file.

4. APPROVAL. a. No permit shall be issued by the commissioner for the construction of a street-walk basement unless such basement is first approved by the commissioner of public works.

b. The cost of protecting, altering or changing the location of any city-owned utilities to permit the construction of a street-walk basement shall be paid by the owner of the real estate abutting such basement.

5. REMOVAL. All street-walk basements used in connection with a building or structure shall be removed whenever such building or structure is removed or razed. Removal of such basements shall be construed to mean the removal of all work executed in the construction of the basement to the extent required by the commissioner of public works. After the street-walk basement is removed, the area shall be filled to grade and the street curb, street walk, pavement and other public improvements shall be restored. The type and placement of the fill and the construction of the curb, walk, pavement and other improvements beyond the street lot line shall be in accordance with the specifications and regulations of the department of public works. The owner of the premises affected shall be responsible for the removal of such basement (vault) and for the restoration of public improvements as herein regulated, and shall assume all costs and expenses attendant therewith.

**245-6. Movable Awnings. 1. DEFINITION.** "Movable awning" means a tractable rooflike shelter attached to the exterior wall of a building or structure in an approved manner, and so constructed and erected to permit being rolled, collapsed or folded back to a position against the building or structure.

2. GENERAL REGULATIONS. All movable awnings erected on any building or structure and projecting beyond a street line shall comply with the regulations of this section.

3. LENGTH. There shall be no limitation on the length of a movable awning.

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4. PROJECTION. The projection of a movable awning from the street line shall not exceed 1/2 the distance from street line to the curb line, but not more than 6 feet in any case. If a sidewalk is less than 12 feet in width, the awning may project 6 feet, but not closer than 2 feet to the curb line. Awnings shall not project into a public right-of-way which is less than 30 feet in width.

5. CLEARANCE. There shall be not less than 7 1/2 feet in the clear between any point of the frame of a movable awning and the sidewalk grade directly below.

### **6. CONSTRUCTION AND DESIGN.**

a. Movable awnings shall be supported entirely by the building or structure to which they are attached.

b. The covering shall be of canvas, cloth or other approved material, which shall be sufficiently flame proofed.

c. Movable awnings shall be designed and supported to withstand snow and other loads of not less than 25 pounds per square foot and wind pressure of 20 pounds per square foot applied in any direction when the awning is not retracted.

d. Approved supporting structure shall be provided for the support and fastening of awnings.

7. SIGNS AND ADVERTISING DEVICES. No sign or advertising device shall be hung from, attached to, printed or painted on a movable awning unless the sign complies with the awning sign regulations of ch. 295.

8. REMOVAL. The owner shall remove or modify a movable awning whenever the city determines that the public convenience would be enhanced by such removal or modification as provided in s. 115-32-2. The owner shall not be entitled to damages relating to the removal or modification.

9. SUPPORTING STRUCTURE. Approved supporting structure shall be provided for the support and fastening of awnings.

### **245-7. Awnings, Canopies and Sun Shades.**

1. DEFINITION. In this section "awning, canopy or sun shade" means a roof-like structure attached to the exterior of a building or structure in an approved manner.

2. GENERAL REGULATIONS. Awnings, canopies and sun shades, when projecting beyond the street line shall comply with the regulations of this section. No awning, canopy or sun shade shall project into a public right-of-way which is less than 30 feet in width.

3. LENGTH. There shall be no limitation on the length of an awning, canopy or sun shade.

4. PROJECTION. The projection of an awning, canopy or sun shade from the street line shall not exceed 1/2 the distance from such street line to the curb line, but not more than 6 feet in any case. If a sidewalk is less than 12 feet in width, the awnings may project 6 feet, but not closer than 2 feet to the curb line.

5. CLEARANCE. There shall be not less than 7 1/2 feet in the clear between any point of an awning, canopy or sun shade and the sidewalk grade directly below.

6. CONSTRUCTION AND DESIGN. Awnings, canopies and sun shades shall be:

a. Constructed of noncombustible, rust-resistive materials. Awnings covered in cloth, canvas or other approved pliable material shall be sufficiently flame-proofed.

b. Supported entirely by the building or structure to which they are attached.

c. Designed and supported to withstand snow and other loads of not less than 25 pounds per square foot and wind pressure of 20 pounds per square foot applied in any direction.

7. SIGNS AND ADVERTISING. No sign or advertising device shall be hung from, attached to, printed or painted on an awning, canopy or sun shade unless the sign complies with the sign regulations of ch. 295.

8. EXISTING FIXED AWNINGS. All fixed awnings heretofore erected and projecting beyond the street line except fixed awnings covered under sub. 9, shall be made to conform to the regulations of this section, or they shall be removed within 30 days following the effective date of June 12, 2010.

9. AWNINGS IN THE HISTORIC THIRD WARD. An awning which is located in the Historic Third Ward District, as defined in s. 200-61-2-e, projects beyond the street line and was in existence on December 16, 2003, may be maintained without a special privilege. The awning may also be repaired, altered or replaced

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without a special privilege, provided the projection from the street line is equal to that of the existing awning or the distance to the curb face, whichever is greater. The awnings shall be constructed in accordance with sub. 6. A permit shall be required for repair, alteration or replacement of an awning, but not for maintenance of an awning. Whenever a permit is required, the owner of the building to which the awning is attached shall:

a. Become primarily liable for damages to persons or property by reason of the granting of a permit for the awning.

b. Remove or modify the awning whenever the city determines that the public convenience would be enhanced by such removal or modification as provided in s. 115-32-2. The owner shall not be entitled to damages relating to the removal or modification.

**245-10. Marquees. 1. DEFINITION.** A marquee as herein regulated shall mean a rigid, flat, roof-like structure, affording shelter, attached to the exterior walls of a building or structure in an approved manner and erected only over an entrance to a building or structure.

**2. GENERAL REGULATIONS.** Marquees, when constructed and erected as regulated in this section, shall be permitted to project beyond a street line above the entry doorways of any building or structure, provided, however, that no such marquee shall project into a public thoroughfare which is less than 30 feet in width.

**3. LENGTH.** The length of marquees, measured parallel to the face of the building or structure to which attached, shall not exceed the width of the entrance doorway or doorways by more than 10 feet, but in no case shall the front face of such marquee be closer than 6 feet to an alley line or 3 feet to an intersecting street line.

**4. PROJECTION.** The projection of marquees from the street line shall not exceed a distance beyond one foot inside the face of the street curb.

**5. CLEARANCE.** There shall be not less than 10 feet in the clear between any point of a marquee and the sidewalk grade directly below.

**6. CONSTRUCTION AND DESIGN.**

a. Marquees shall be constructed of noncombustible materials throughout.

b. Marquees shall be supported entirely by the building or structure to which they are attached.

c. Marquees shall be designed and constructed to safely support a superimposed load of 80 pounds per square foot.

d. The roof of the marquee shall be made watertight and shall have a slope of not more than one in four. Such roofs shall slope and drain toward the building or structure and shall be provided with conductors connected with the house sewer or drain.

e. The vertical dimension of the side or front face of a marquee shall not exceed 8 feet.

**7. SIGNS AND ADVERTISING DEVICES.** No signs or advertising devices shall be hung from or attached to the bottom of a marquee, except that other signs or advertising devices may be attached to or made a part of the sides or front face of a marquee, as regulated in ch. 244 and in accordance with the regulations for hood signs in ch. 295. Illumination by means of recessed lighting fixtures or by other approved means shall be provided in soffits or marquees.

**8. EXISTING MARQUEES.** All marquees projecting 4 feet or less and being 32 square feet in size or smaller and heretofore erected prior to June 12, 2010 shall be made to conform to the regulations of this section when altered or replaced.

**9. REMOVAL.** The owner of a marquee shall remove or modify the marquee whenever the city determines that the public convenience would be enhanced by such removal or modification as provided in s. 115-32-2. The owner shall not be entitled to damages relating to the removal or modification.

**245-11. Permits and Fees. 1.** No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, raze or demolish any permissible projection regulated in s. 245-4-1 to 15, 17, 18, 20 to 24, 27 and 29, or any existing projections without first obtaining a permit therefor from the commissioner of city development and paying the fee as prescribed in s. 200-33.

**2.** Permits for the temporary occupancy and use of public thoroughfares, the cutting of street curbs, installation of driveways, the establishment of sidewalk area dining

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facilities and any construction therewith regulated in s. 245-16, 19 and 25, shall be obtained pursuant to ch. 115 and by rules, fees and regulations established by the commissioner of public works.

**245-12. Special Privileges. 1. COMPLIANCE.** Privileges for an obstruction or excavation beyond the street line, other than those regulated by this chapter or by other ordinances, may be granted by the common council pursuant to s. 66.0425, Wis. Stats.

**2. FIXED COSTS.** Any person, firm, association or corporation desiring such special privileges shall file with the commissioner of public works a petition in writing on a form furnished for such purpose by the city engineer or the commissioner of city development, and shall pay to the city treasurer the fee as specified in s. 81-115, special privileges, for the purpose of defraying the cost of printing and other expenses which the city may incur in the consideration of such resolution for a special privilege, as regulated in s. 301-7.

**3. PROVISIONS.** A special privilege shall be granted only on condition that by acceptance of such special privilege the grantee shall:

a. Become primarily liable for damages to persons or property by reason of the granting of such special privilege.

b. The applicant shall file with the commissioner of public works a certificate of insurance indicating applicant 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 on the area or areas included within the special privilege, and naming the city of Milwaukee as an insured. The insurance policy shall provide that it shall not be cancelled until after at least 30 days' notice in writing to the commissioner of public works. In lieu of the insurance policy coverage, a public service corporation, or a cooperative association organized under ch. 185, Wis. Stats., to render or furnish telephone, gas, light, heat or power, or colleges and universities may file with the commissioner of public works proof of financial responsibility

containing the conditions and giving the protection required in the public liability policy. Acceptance of the proof of financial responsibility shall be subject to approval by the city attorney upon consultation with the city comptroller.

c. Pay to the city treasurer the annual fee fixed by the special privilege board.

d. Maintain a minimum sidewalk clearance of 5 feet, which shall be kept clear of all obstructions.

e. Remove such special privilege whenever public necessity so requires, and when so ordered by resolution adopted by the common council; such grantee shall not be entitled to damages for such removal.

f. Waive the right to contest in any manner the validity of s. 66.0425, Wis. Stats., or the amount of the annual fixed fee as determined by the special privileges board.

g. Put the special privilege into use within one year after approval by the common council. Should the grantee fail to do so, the commissioner may, by resolution, seek revocation of said privilege.

h. If the special privilege is for placement of one or more dumpsters in the public right-of-way, the grantee shall ensure that:

h-1. Each dumpster remains in the location for which the special privilege was granted.

h-2. No dumpster has rusted surfaces or is otherwise in a state of disrepair.

h-3. The lid or lids of each dumpster remain closed at all times except when refuse is being placed in the dumpster or the dumpster is being emptied.

h-4. No contents of a dumpster spill onto the public right-of-way.

h-5. No refuse remains on the ground on the perimeter of any dumpster.

**4. RECOMMENDATIONS.** The common council shall refer all petitions for special privileges for consideration and recommendation to the commissioners of public works and neighborhood services for consultation with the commissioner of city development when the special privilege includes the extension of use.

**5. AMENDMENTS.** a. A grantee desiring to add items to or remove items from a special privilege shall file with the commissioner

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of public works a special privilege amendment petition in writing on a form furnished for this purpose by the city engineer or the commissioner of city development.

b. Any sale, transfer or conveyance of ownership of a property with a special privilege requires the new ownership to file with the commissioner of public works a special privilege amendment petition in writing on a form furnished for this purpose by the city engineer or the commissioner of city development.

**6. FIXED CHARGE EXEMPTIONS.** The city of Milwaukee, county of Milwaukee, state of Wisconsin, and the United States of America and all political subdivisions thereof shall be exempt from the paying of the fixed charge made for the purpose of defraying the cost of printing and other expenses which the city may incur in the consideration of such resolution for a special privilege.

**7. ENFORCEMENT; SANCTIONS.** If the commissioner of public works determines that a person has failed to comply with the provisions of this section, the commissioner shall notify the person of the violation. If the person fails to comply with any order issued by the commissioner within 60 days of receipt of the order, or, in the case of a special privilege for placement of one or more dumpsters in the public right-of-way, within 24 hours of receipt of the order, the commissioner may assess the person a monthly enforcement fee under s. 200-33 until compliance is obtained. The fee may be assessed and collected as a special tax on the property or otherwise be collected as allowed by law. In addition, in the case of a special privilege for placement of one or more dumpsters in the public right-of-way, the common council may, by resolution, revoke the special privilege for failure to comply with any of the standards of sub. 3-h.

**245-12.5. Special Privileges Board.** A special privileges board is established consisting of 3 members: the mayor, the commissioner of public works and the city attorney. Any member may appoint a designee. The commissioner of neighborhood services shall act as secretary of the board. The special privileges board shall determine annual fees for special privileges grantees when fees are appropriate.

**245-13. Roofed Sidewalks (Covered Walks).**

**1. DEFINITION.** A roofed sidewalk or covered walk shall mean a rooflike structure, other than an awning, canopy, hood or marquee, erected over a sidewalk for the sole purpose of providing shelter for persons entering or leaving a public building.

**2. GENERAL REGULATIONS.** No roofed sidewalk (covered walk) shall be constructed or maintained beyond the street line without individual and specific rights and privileges granted by the common council, pursuant to s. 245-12 and s. 66.0425, Wis. Stats. The construction and location of such roofed sidewalks (covered walks) shall be in compliance with the terms and conditions set forth in the privilege. All privileges for such structure shall also comply with the standards and policy established by the common council.

**3. SIGNS AND ADVERTISING DEVICES.** No sign or advertising device shall be hung from, attached to, printed or painted on any part of a roofed sidewalk (covered walk). The name, street number, or character of the business may be indicated on the vertical portion only, not to exceed 8 inches in height.

**245-13.5. Dumpsters.** No dumpster may be placed in the public right-of-way, including any alley, sidewalk, paved roadway, tree border or other unpaved portion of the right-of-way, unless the owner of the property served by the dumpster has obtained a special privilege granted by the common council under s. 245-12. When 2 or more dumpsters serve a particular property, the property owner may apply for a single special privilege for all dumpsters located in the right-of-way. The commissioner of public works is authorized to remove, or to have removed, from the right-of-way any dumpster for which no special privilege has been granted.

**245-14. Air and Subterranean Space Lease Structures.** **1.** There is created a committee on air and subterranean space lease structures composed of the following or their designees:

- a. Commissioner of neighborhood services.
- b. Commissioner of public works.
- c. City engineer.
- d. Planning director, department of city development.
- e. City real estate agent.

## **245-14-1.5 Encroachments, Projections And Special Privileges**

**1.5.** An assistant city attorney shall be assigned to the committee by the city attorney to provide legal advice for the conduct of the committee and the drafting of the necessary documents.

**2.** Such committee shall have for its duties the coordination of all air space and subterranean lease requests which are made to the city of Milwaukee pursuant to s. 66.0915(3) and (4), Wis. Stats.

**3.** The committee shall design all forms to be used, and the commissioner of neighborhood services shall distribute application forms to those requesting the same. The members of the committee shall elect one of their members chair to preside over the committee for a term at the pleasure of the committee. Verbatim reports of the committee activities need not be kept unless the committee so decides. Completed applications shall be returned to the commissioner of neighborhood services or his or her representative on the committee, together with the building plans, plot plans and other data that will show the elevations, location, height and site of the proposed structure, its relationship to adjoining buildings, and a memorandum of ownership showing the last recorded owner of all of the properties proposed to be joined by the air or subterranean space structure.

**4.** The application and additional submissions, in duplicate, shall be accompanied by the fee specified in s. 200-33, special privileges, etc., which shall be paid to the city treasurer, and the commissioner of neighborhood services shall submit the original of the application to the city clerk, who shall transmit the same to the common council for introduction at its next regularly scheduled meeting. A combination air space and subterranean lease shall require individual leases and a separate application and fee shall be required for each. Such fee shall not be returnable, nor shall such fee be waived at any time. The council, on receipt thereof, shall refer the same jointly to an appropriate committee of the common council, the city plan commission and the special committee on air and subterranean space lease structures, and shall be transmitted to the special committee for investigation.

**5.** The special committee may meet with the applicant from time to time, and may request additional information, maps, drawings, documents, plans and other information from the applicant relative to the request. When the special committee completes its investigation, it shall make a written report thereof, attach it to the common council file and transmit same to the city plan commission.

**6.** Upon receipt of the entire file from the special committee, the city plan commission shall review the same, make its recommendations thereon in writing, attach such recommendations to the file and return such file to the special committee. Upon receipt thereof, the special committee shall transmit the entire file including the suggested lease fee to the committee of the common council to which it was referred.

**7.** The common council committee may make further references of the file to such other boards, commissions or officers for any further information that it may deem necessary, or may return the file to the special committee with instructions or for additional information.

**8.** This section is intended to be procedural only and is not intended to supersede or nullify any other section of the Milwaukee code, or the building and zoning code.

For the legislative history of Chapter 245 contact the Municipal Research Library.

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