

## PUBLIC WORKS

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### Article I. In General

#### **Sec. 13-01. Environmental pollution.**

No person shall sweep or deposit weeds, grass clippings, leaves or any objects or materials from private premises upon any sidewalk, street, terrace, or other city property which are likely to get into storm sewers and cause environmental pollution.

(Code 1982, § 8.12)

#### **Sec. 13-02. Public works without bids.**

Pursuant to § 62.15(1) Wis. Stats., any sewer main extensions; water main extensions; sidewalks; paving and street improvements; construction and maintenance of streets and highways; storm and sanitary sewers and drains; repairing, extension and alterations of any sewage disposal plant; alterations and repairs to public buildings; and any other class of public construction may be done by the city without submitting such for bids.

(Code 1982, § 8.15)

#### **Sec. 13-03. Construction of private transmission lines, laterals and service pipes.**

- (1) *Resolution to be adopted.* Whenever the council, after recommendation by the board of public works, shall determine to improve any streets in the City of Marshfield with concrete or hot mix bituminous surfacing, without special assessment to adjoining owners, the council may, by resolution, require adjoining property owners and/or utilities to construct cable or electrical lines or water, heat, sewer and/or gas laterals or service pipes from the lot line, or near the lot line into the right-of-way. In such case, the resolution may provide that such construction be performed within a certain period of time, prior to the improvement of such street, and if such lines, laterals or service pipes are not so constructed by the property owner or utility, the city may construct the lines, laterals or service pipes.
- (2) If the work described in subsection (1) of this section is done by the city, or under a city contract, a record of the cost of constructing such laterals or service pipes shall be kept and such cost, or the average current cost of laying such laterals or service pipes, shall be charged and be a lien against the lot or parcel served in such manner as may be provided in such resolution.

(Code 1982, § 8.18)

#### **Sec. 13-04. Enforcement and penalty.**

The director of public works, the city engineer or an authorized agent thereof shall enforce this chapter, and have the authority to issue citations enforcing this chapter and for public nuisances under chapter 11 of this Code in the Marshfield Municipal Court.

(Code 1982, § 8.25; Ord. No. 1031, § 2, 10-12-2004)

#### **Secs. 13-5—13-30. Reserved.**

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**Article II. Streets and Sidewalks**

**Sec. 13-31. Street and sidewalk grade.**

- (1) *Establishment.* The grades of all streets, alleys and sidewalks shall be established by the city engineer, approved by the council and filed in the office of the city clerk.
- (2) *Altering grades prohibited.* No person shall alter the grade of any street, alley, sidewalk or public ground, or any part thereof, unless authorized or instructed to do so by the city engineer, upon approval of the council.

(Code 1982, § 8.01)

**Sec. 13-32. Sidewalk construction and repair.**

- (1) *Statutes adopted by reference.* The provisions of § 66.0907Wis. Stats. are hereby adopted by reference, except that abutting property owners shall be responsible for 100 percent of the cost of construction and/or repair of sidewalks. The city shall be responsible for 100 percent of the cost of construction and/or repair of curb ramps and crosswalks.
  - (a) *Minor Repairs.* If the cost of repairs of any sidewalk in front of or adjacent to any parcel of land does not exceed the sum of \$100, the City Engineer may immediately repair the sidewalk, and charge the cost of the repair to the owner of the lot or parcel of land as provided in this ordinance and the provisions of § 66.0907Wis. Stats.
  - (b) *Notice for Minor Repairs.* A notice shall be sent to the owner of the parcel of land stating the city's intent to make minor non-emergency repairs. If the owner of a parcel of land chooses not to utilize the city's method for minor repairs the parcel owner shall notify the City Engineer in writing within ten business days of the day the notice is sent. Emergency repairs shall not require a written notice.
- (2) *Policy established.* The board of public works shall establish a policy governing the installation and repair of sidewalks. The city engineer shall administer such policy.
- (3) *Permit required.* No person shall engage in or carry on the business of constructing or repairing concrete sidewalks in the City of Marshfield unless a permit therefor has first been obtained by the owner, or the owner's agent, from the building services supervisor, as provided in section 15-02 of this Code. The term "business" means the constructing or repair of such sidewalks for compensation. Minor repairs made by the property owner shall not require a permit as determined by the building services supervisor and the city engineer.
- (4) *Bond required.* No person shall engage in or carry on the business of constructing or repairing concrete sidewalks in the City of Marshfield without first filing in the office of the city clerk a bond or other such surety as may be approved by the city attorney and the director of public works in the sum of \$10,000.00. Such bond shall be executed by the contractor as principal and by a surety company to be approved by the city attorney. The bond shall require that for a term of one year from the date of such sidewalk construction or repair, the contractor will properly replace and repair any defective work which may be discovered and pay all damages sustained by any person thereby. Such bond shall include a provision that it shall not be cancelled without at least 30 days' written notice to the city of such proposed cancellation.
- (5) *Insurance required.* Sidewalk contractors shall provide proof of public liability insurance by filing, with the city engineer, a certificate of insurance. Such certificate shall be subject to review by the city attorney. If, in the opinion of the city attorney, the contractor's insurance is not adequate for the sidewalk work

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contemplated, permits may be denied. The City of Marshfield shall be named as "additional insured" on such insurance certificate. The contractor will indemnify and save harmless the City of Marshfield from all accidents and damages caused by any negligence in the construction or repair of any sidewalks, or by any unfaithful, imperfect or inadequate work on the part of such contractor, including any failure to erect and maintain sufficient barriers or lights at the place where sidewalks are being constructed by the contractor to guard against injury to persons passing upon the street and any failure to promptly remove all tools, implements, refuse and unused materials from such street after the completion of the work.

(Code 1982, § 8.02; Ord. No. 1102, § 1, 6-26-2007)

### **Sec. 13-33. Street excavations.**

- (1) *Permit.* No person shall excavate in any street, alley or public ground without a permit therefor from the director of public works.
- (2) *Bond.* Before a permit may be issued for excavating in any public street, way, or alley, the person applying for such permit shall execute to the city and deposit with the city clerk a corporate surety approved by the city in a sum of \$1,000.00 conditioned that he will perform faithfully all work with due care and skill and in accordance with the laws, rules and regulations applicable thereto.
  - (a) *Liability.* The bond shall state that the person will indemnify and save harmless the city and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with such excavating.
  - (b) *Length of bond.* Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.
  - (c) *When to file.* Bonds in compliance with this subsection shall be executed and filed on or before January 1 of each year, and no permit for such excavating shall be issued before such bonds are so filed and executed by the person applying for such permit.
- (3) *Restricted in winter.* No openings in the streets, alleys or other public ways shall be permitted when the ground is frozen, except in emergencies. In opening any street or other public way, all materials for paving or ballasting shall be excavated with the least possible injury or loss to the remaining portion and, together with the excavated material from the trench, shall be removed completely from the public right-of-way. All ditches and gutters shall admit the free passage of water.
- (4) *Protection of the public.* No permit shall be issued if the method of construction or the location of the work to be performed will impair the public safety and convenience. The permit holder shall erect such barriers, warning lights and signs as will adequately inform the traveling public of the nature and location of the work being performed. All openings made in the public streets or alleys shall be enclosed with sufficient barriers, and red lamps shall be maintained upon the openings at night and all other necessary precautions to guard the public against all accidents from the beginning to the completion of the work shall be taken. Sewers and drains shall be laid only on condition that the excavator or plumber is bonded as provided for all damages that may result from his neglect of any necessary precaution against all accidents to persons or property of others.
- (5) *Restoring surfaces.* All street surfacing removed for construction purposes shall be replaced by the city upon the completion of the work. The cost of such surface replacement shall be borne by the permittee. The board of public works shall establish rates per square foot for various types of surface replacement based on estimated costs. Each application for a permit which contemplates removal of street surface shall be accompanied by a deposit in an amount sufficient to cover the estimated surface replacement cost at the rates established in this subsection. At the completion of the work, the actual area of the surface cut or removed shall be measured by the city. If such area is greater than the amount covered by the deposit, the

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permittee shall be billed for any excess due; and if less, the permittee shall be refunded the amount overcharged.

- (6) *Protection of utility conduits; repairs and maintenance.* All gas, water, sewer, electric or telephone conduits must be protected from injury or settling in a manner satisfactory to the director of public works. The licensee shall be responsible for all repairs or maintenance in connection with the excavation for a period of one year.
- (7) *Backfilling.* All backfilling of such excavations shall be performed in accordance with the provisions of section 14-03(10) of this Code.

(Code 1982, § 8.04)

### **Sec. 13-34. Installation of culverts.**

- (1) *Permit required.* No person shall lay, install or place, or cause or allow to be laid, installed or placed any culvert in any street or other public way in the city without first securing the approval of the department of public works of the material from which the culvert is to be constructed and of the size the culvert. Such approval shall be written, and shall specify the material to be used and the size of such culvert. The applicant shall provide the culvert, but the department of public works shall provide for the installation thereof. The applicant, or his assigns, shall be responsible for the subsequent maintenance of the culvert. No building permit shall be issued for the premises to be served by such culvert until application therefor has been made, and no certificate of occupancy for the premises shall be issued until such culvert has been approved and installed.
- (2) *Removal of culvert.* The department of public works shall order the removal of any culvert laid, installed, placed in violation of this section, at the expense of the person responsible, and any culvert not removed within ten days may be removed by the department of public works at the expense of such person.

(Code 1982, § 8.05)

### **Sec. 13-35. Sidewalks, removal of snow and ice; duty of street superintendent.**

- (1) *Removal of snow and ice from sidewalks and curb ramps.* Removal of snow and ice from sidewalks and curb ramps shall be done in accordance with the following:
  - (a) Owners of property abutting or containing public sidewalks, curb ramps and outwalks, hereinafter collectively referred to as "sidewalks", shall be responsible to maintain such sidewalks free from snow and ice accumulations at all times. Such owner shall be responsible to remove or have removed all accumulations of snow and ice from the entire paved width and length of such sidewalks, within 48 hours after snow or ice has fallen or accumulated thereon, without notice, except for downtown sidewalks as provided in subsection (c) below. In the case of drifting snow or of ice accumulating due to melting and refreezing, such owners shall keep all sidewalks sprinkled with sand or salt, and no accumulation of ice or snow shall be permitted to continue for more than a 48-hour period.
  - (b) If any owner has failed to comply with any provisions of subsection (1)(a) of this section for a 48-hour period, the street superintendent, or his designee, may arrange for prompt removal or treatment of the accumulations of ice or snow, and may repeat removal or treatment procedures as often as necessary to maintain such sidewalks in a safe and usable condition. Any costs and expenses of such removal or treatment shall be charged to the owner. The minimum charge for ice and snow removal and treatment shall be \$75.00 for any parcel containing not more than 200 feet of sidewalk length; \$90.00 for any parcel containing more than 200 feet of sidewalk length, and an additional \$25.00 for each curb ramp or outwalk, plus administrative charges as established by the street superintendent. For 4 or more contiguous vacant lots under the same ownership, the minimum charge for ice and snow removal shall

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be \$300 plus one administrative charge. For the purposes of this section, vacant lots under the same ownership, separated by unopened road right-of-way shall be considered contiguous.

- (c) Owners of Downtown Property abutting or containing public sidewalks, curb ramps and outwalks, hereinafter collectively referred to as "sidewalks", shall be responsible to remove or have removed all accumulations of snow and ice down to bare pavement for the entire paved width and length of such sidewalks, within 48 hours after snow or ice has fallen or accumulated thereon, without notice.
    - 1. Downtown Property shall be defined as those properties within the established boundaries of the Business Improvement District excluding properties used exclusively for residential purposes. The entire paved length and width of said sidewalks shall include the area from the building front or right-of-way line to the face of the curb, including brick paver areas, where present.
    - 2. If any owner has failed to comply with any provisions of subsection (c) above, the street superintendent, or his designee, may arrange for prompt removal or treatment of the accumulations of ice or snow, and may repeat removal or treatment procedures as often as necessary to maintain such sidewalks in a safe and usable condition. The owner shall be charged double the minimum charges described in subsection (b) above.
  - (d) The street superintendent shall maintain an account of ice and snow removal or treatment, and shall report the account to the finance director not less than monthly. The finance director shall collect such charges from the owners of the parcels containing or abutting the subject sidewalks, and if no payment is made, may assess on the next subsequent tax roll a special charge against the parcels of land which are affected, to be collected in the same manner as other city taxes upon real estate. No property in the city shall be exempt from the payment of such special charges.
  - (e) In addition to charges for ice and snow removal and treatment as provided at subsection (1)(b) of this section, after written notice of noncompliance from the street superintendent repeated violations may be cited as an ordinance violation, subject to penalties as provided at section 1-05 of this Code of the City of Marshfield. Each day of noncompliance shall constitute a separate offense.
  - (f) The street superintendent will publish a legal notice summarizing the requirements of this section of the Municipal Code during the first week of October of each year.
  - (g) Any contractors hired by the city for the purpose of clearing sidewalks must submit proof of liability insurance coverage.
- (2) *Deposit in streets restricted.* It shall be unlawful for any person, firm or corporation to push and/or deposit snow from private premises, whether his or its own premises or those belonging to any other private person, firm or corporation upon, onto or across any sidewalk, street, and/or other city property within the City of Marshfield, Wisconsin, or to deposit snow from private premises, excluding sidewalks and driveway approaches, upon any terrace within the city.
- (3) *Snow emergency.* Snow emergency regulations shall be as follows:
- (a) Definitions: The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
    - 1. *Parking* means permitting a vehicle to remain unattended, but shall not include the temporary stopping of a vehicle by a doctor on an emergency call; business vehicles being used for normal delivery or pickups; or police, fire or other emergency vehicles.
    - 2. *Snow emergency* means an emergency that shall exist whenever there shall be an accumulation of snow of not less than three inches during a 24-hour period and such accumulation hinders or interferes with the safe and expeditious movement of traffic or impedes the ability of an

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emergency or public transportation vehicle to travel safely and expeditiously over the streets and highways of the City of Marshfield. Such emergency shall continue in effect for a period of 48 hours after snow has ceased to fall, or until such time as the snow has been removed from the streets or highways within the city, or until the snow emergency has been rescinded by action of the street superintendent.

(b) *Emergency snow parking regulations.* No vehicle shall be parked on any public street or highway in the City of Marshfield during any snow emergency condition as described in subsection (3)(a) of this section, except as provided in the administrative code of traffic and parking regulations.

(c) *Declaration of snow emergency.* A snow emergency may be declared to exist by the director of public works and/or street superintendent. Publication of such declaration shall be given by notifying the news media in the area, but such declaration shall be a service aid only, and not a duty on the part of such officials.

(4) *Penalties.* Any person who shall be in violation of any provision of this section, except subsection (3)(b) of this section, shall, upon conviction thereof, forfeit the sum of not less than \$5.00 nor more than \$50.00, and any person who shall violate subsection (3)(b) of this section shall, upon conviction thereof, forfeit the sum of not less than \$10.00 nor more than \$100.00, together with the costs of prosecution, for each such offense, and in the event of a default in the payment thereof, shall be imprisoned in the city or county jail for not more than seven days for each such offense, unless such judgment of forfeiture and costs are sooner paid.

(Code 1982, § 8.08; Ord. No. 966, § 1, 2, 12-17-2002; Ord. No. 1061, § 1, 10-11-2005; Ord. No. 1061, § 1, 10-11-2005; Ord. No. 1150, § 1, 3-24-2009; Ord. No. 1175, § 1, 2-23-2010)

### **Sec. 13-36. Temporary closing of streets.**

(1) *Noncommercial use.* The department of public works shall close any street or portion thereof for a period of not more than five consecutive days, for any noncommercial use thereof by any civic, fraternal, religious, charitable or similar noncommercial organization. The director of public works shall require such organization to place suitable barricades at the ends of the portion of the street so closed, and to hold the city harmless from all damage and all liability for injury to persons or property which might result from such closing, on such terms and conditions as the department of public works deems.

(2) *During construction.* The board of public works, or any contractor or agent working under the direction of such board, or the holder of a permit issued in accordance with section 14-03 of this Code, is hereby empowered and authorized to close to traffic by the erection of suitable barricades and signs any street or alley which is unfit or unsafe for travel. Barricades shall be provided with warning lights or flares at night. Barricades or signs shall not be moved or removed by any unauthorized person.

(3) *Penalty.* Any person entering any street or alley which shall have been closed to traffic as provided in subsection (2) of this section or moving or removing any barricade or sign which shall have been erected in accordance with subsection (2) of this section shall, in addition to the penalties provided by section 1-05 of this Code, be liable to the city in the amount of any damages which might be caused to municipal property as a result of such violation.

(Code 1982, § 8.13)

### **Sec. 13-37. Street lines established.**

(1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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*Roadway* means the traveled portion of any street as established by the department of public works.

*Street line* means that portion of any public right-of-way lying between the boundaries thereof.

*Terrace* means the portion of any street right-of-way lying between the roadway edge of the public sidewalk, if any, and the curb or the shoulder of the traveled roadway.

- (2) *Terrace responsibility of owner.* The terrace shall be the responsibility of the owner of the property fronting or abutting on the street. The terrace shall be built with earth and seeded with lawn to an established grade by such owner, at his own cost and expense, within 30 days after service of notice to do so by the director of public works. Exceptions for alternative terrace treatments may be permitted in the downtown business district and other areas of high pedestrian traffic upon approval by the board of public works.

(Code 1982, § 8.14; Ord. No. 1051, § 1, 6-28-2005)

**Secs. 13-38—13-65. Reserved.**



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**Article III. Obstructions and Encroachments**

**Sec. 13-66. Obstructions and encroachments.**

- (1) *Prohibited.* No person shall encroach upon or obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in subsection (2) of this section. No person shall prohibit or obstruct the flow of water in any ditch, sewer, gutter or culvert in, along or across any street, alley, lane, sidewalk or natural surface drain in the city.
- (2) *Exceptions.* The prohibitions of subsection (1) of this section shall not apply to the following:
  - (a) Signs and clocks attached to buildings which project not more than six feet from the face of such building and which do not extend at any point lower than eight (8) feet above the sidewalk, street or alley.
  - (b) Awnings which do not extend at any point lower than seven feet above the sidewalk, street or alley.
  - (c) Public utility encroachments authorized by the city.
  - (d) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than three hours.
  - (e) Building materials when a permit therefor has been issued by the director of public works. Such permission shall be granted for periods not to exceed four months.
  - (f) Debris resulting from automobiles which have been wrecked or damaged, if the owner or operator removes such debris within 12 hours of the accident. (g) Newspaper vending boxes, provided, however, that such boxes shall not be installed within four feet of any public or private driveway, shall not exceed a size reasonably necessary to effect their purpose, shall be placed at either the outside or inside edge of the sidewalk, if a sidewalk is available, and shall be limited to one such box for any newspaper publication on any street between two intersecting streets. The owner of such boxes shall provide liability insurance covering personal injury and property damage which might or could result from the establishment of such boxes in an amount of \$25,000.00/50,000.00 for personal injury and \$5,000.00 for property damage; such policies shall name the City of Marshfield as an additional insured, and a certificate of insurance showing the existence of such policy, containing not less than a ten-day cancellation provision, shall be filed with the city clerk. Such insurance policy shall describe the location of the box covered by the policy, and the city shall be furnished a copy of such policy, or the description of such location shall be included in the certificate of insurance referred to in this subsection.
  - (g) Any enhancements placed on public sidewalk or public property that follow Policy 5.080 (PROW) and have an approved PROW permit.

(Code 1982, § 8.06; ORD 1330, April 26, 2016; ORD 1342 12/13/16)

**Secs. 13-67—13-95. Reserved.**

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### Article IV. Special Assessments

#### Sec. 13-96. Special assessments.

- (1) *When applicable.* Benefitted properties shall be subject to special assessments, levied and collected in accordance with § 66.0701 Wis. Stats. for the following public works or improvements:
  - (a) The opening of a street to traffic.
  - (b) The improvement of a street opened to traffic.
  - (c) The construction of a sanitary sewer main.
  - (d) The construction of a sanitary sewer lateral, storm sewer lateral or water service lateral.
  - (e) The construction, replacement or repair of a public sidewalk when done in connection with a street improvement project.
  - (f) The construction and installation of a water main if necessary to be done in connection with a street improvement project when, in the judgment of the council, it would be impractical for such water main to be installed under the rules of the Marshfield Utility Commission. If required, a deposit for the cost of the installation of such main shall be made from the general funds of the city.
  - (g) The construction of a storm sewer.
- (2) *Determining assessment rates for street construction.* The following methods shall be used to determine assessment rates for the opening of a street and improvements of a street:
  - (a) The front foot assessment rate shall be 33.33 percent of the total cost of construction for a single linear foot of the typical cross section of roadway plus ten percent for engineering and administrative overhead. When federal, state or county funding is provided for the project to the extent of not more than 66.67 percent thereof, then the frontfoot assessment rate shall be discounted by the percentage of federal, state or county funding applied to the cost of the project. When federal, state or county funding is provided for the project to the extent of at least 66.67 percent thereof, then the front foot assessment rate shall be 50 percent of the resulting city share of the cost per lineal foot and shall be discounted by the percentage of federal, state or county funding applied to the cost of the project.
  - (b) Where the project involves a cul-de-sac or different types of construction on the same project, the procedure in subsection (2)(a) of this section may be modified to more accurately determine the benefits accruing to each parcel of abutting property. In such case the total assessments levied shall not exceed 66.67 percent of the total cost of construction as determined in subsection (2)(a) of this section.
  - (c) For property used for residential, educational, governmental or nonprofit corporation purposes, regardless of the zoning classifications therefor, the side-foot rate shall be 50 percent of the front-foot rate.
  - (d) For property used for any purpose other than those set forth in subsection (2)(c) of this section, the side-foot rate shall be 75 percent of the front-foot rate.
  - (e) For platted residential property where reversed frontage exists with the long side of the property fronting on the project, and where there is no possibility of further construction, the assessment at the

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front-foot rate shall not exceed the length of the short side of the property and the balance shall be assessed at the side-foot rate.

- (f) When a parcel of residential property abutting the project has a lot line forming an interior angle of 65 degrees or less with the street right-of-way line then the equivalent frontage or sideage for assessment purposes shall be determined by dividing the area of the parcel by the greatest distance that can be measured from the street right-of-way line at right angles to such line. This shall not apply to a parcel of land whose lot lines are parallel or do not diverge more than 15 degrees from being parallel, nor shall it apply to sanitary sewer or sidewalk assessments.
  - (g) In the improvement of a street opened to traffic, it is determined that the maximum pavement construction that is necessary to serve abutting property zoned for residential use is asphalt pavement with curbs, 32 feet wide and 3- inches thick (two layers). Where pavement construction exceeds the above dimensions the total cost of construction specified in subsection (2)(a) of this section shall be based on a pavement of the dimensions stated in this subsection using prorated unit costs of actual pavement construction or equivalent.
- (3) *Determining assessment rates for sanitary sewer main construction.* The following methods shall be used to determine assessment rates for sanitary sewer main construction:
- (a) The total cost of construction plus ten percent for engineering and administrative overhead shall be divided by the linear feet of all benefited properties, including property outside the corporate limits, city-owned greenways and the side of a corner parcel where sewer has been previously installed and special assessments charged on the opposite side of such corner parcel.
  - (b) The rate so determined shall be applied to each linear foot of all benefited property except property referred to in subsection (3)(a) of this section as "included," and those assessments shall be paid by the city.
  - (c) The word "side" as used in subsection (3)(a) of this section shall mean either the front, side or rear of a parcel, whichever is applicable.
  - (d) Where the project involves construction in a cul-de-sac or in an easement, the procedures in subsection (3)(a)—(3)(c) of this section may be modified to more accurately determine the assessments to be levied against abutting properties benefited by the construction.
- (4) *Sanitary sewer lateral, storm sewer lateral, and water service lateral construction.* The assessment for the construction of a sanitary sewer service lateral, storm sewer laterals, or water service lateral shall be 100 percent of the total cost of construction plus ten percent for engineering and administrative overhead. The cost of construction shall include all permit fees, connection charges and lift station fees where applicable.
- (5) *Sidewalk construction.* The assessment for the construction, replacement or repair of a public sidewalk when done in connection with a street improvement project shall be 100 percent of the total cost of construction plus ten percent for engineering and administrative overhead except as follows:
- If an existing sidewalk does not require repairs as required in the Sidewalk Construction and Repair Policy and is removed and replaced as part of a street improvement project, due to adjustment for grade or cross slope or due to nonconformance with the current standard for the Americans with Disabilities Act, said sidewalk shall not be subject to special assessments.
- (6) *Determination of assessment rates for water main construction.* The provisions of subsection (3) of this section shall apply to the assessment for the construction and installation of a water main when done pursuant to subsection (1)(f) of this section and section 19-63(2) of this Code.

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- (7) *Determination of assessment rates for storm sewer main construction.* The following methods shall be used to determine assessment rates for storm sewer construction:
- (a) Storm sewer construction on streets without curb and gutter shall be subject to special assessments. All properties served or benefitted by the new storm sewer system or appurtenances shall be considered as part of the assessment district. Assessments shall be levied for 50 percent of the total cost of construction.
  - (b) The assessment rate shall be determined pursuant to subsection (3) above of this section. The assessment rate for properties used for agricultural, residential, educational, governmental or nonprofit corporation purposes, regardless of the zoning classification, shall be limited to the total cost of construction for a maximum storm sewer size able to handle up to 15 cubic feet per second of stormwater flow. The assessment rate for all other property uses shall be subject to the total cost of construction regardless of the storm sewer size.  
Storm sewer installations on streets with curb and gutter shall not be subject to special assessments.
- (8) *Connection charges when assessment not permitted.* In the event that the city shall be required by law or court decision to provide the services described in subsection (3) of this section to property outside the corporate limits, and where section 13-99 of this Code does not apply, there shall be a connection charge made equal to the amount which would have been otherwise assessed. No such connection shall be permitted until such connection charges are paid or secured in a manner satisfactory to the city. Connection charges shall be paid in one lump sum and shall not be subject to Subsection (9), Terms for repayment of special assessments, below.
- (9) *Terms for repayment of special assessments.* The following terms shall be used in the repayment of special assessments:
- \$ 0.00 - \$ 500.00                      60 days from date of receipt of invoice of final assessments without interest, or until the next property tax bill is due with interest accrued from the date of the final invoice.
  - \$ 501.00 to \$5,000.00                60 days from date of receipt of invoice of final assessments without interest. If not paid in full, remaining balance will be added to the tax bill in 10 equal payments with interest accrued from the date of the final invoice for all types of construction.
  - Over \$5,000                                60 days from date of receipt of invoice of final assessments without interest. If not paid in full, remaining balance will be added to the tax bill in 20 equal payments with interest accrued from the date of the final invoice for all types of construction.
- a) Upon sale or conveyance by deed of any property subject to a special assessment which is authorized to be paid in installments and which has been placed on the tax roll, the entire amount of the special assessment then outstanding shall be immediately due and payable and shall not be assumed by the purchaser of the property, except as provided for in subsection (b) below. In the event of nonpayment, the entire outstanding special assessment balance shall be placed on the next ensuing tax roll and collected in the same manner as taxes upon real estate. Following such a conveyance, the city clerk shall make appropriate modifications to the city's special assessment roll and records to reflect such change. The entire balance of special assessments must be paid when property subject to a special assessment is divided by re-platting in a certified survey map or any portion of the land subject to a special assessment is sold or conveyed by a separate legal description.
  - b) The provisions of subsection (a) above shall not apply to any conveyance:

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1. Which, executed for nominal, inadequate or no consideration, confirms, corrects or reforms a conveyance previously recorded.
2. Pursuant to mergers of corporations.
3. By a subsidiary corporation to its parent for no consideration, nominal consideration or in sole consideration of cancellation, surrender or transfer of capital stock between parent and subsidiary corporations.
4. Between husband and wife, parent and child, step parent and step child, parent and son-in-law or parent and daughter-in-law for nominal or no consideration.
5. Between agent and principal or from a trustee to a beneficiary without actual consideration.
6. Solely in order to provide or release security for a debt or obligation except as required by Wis. Stats. 77.22(2)(b).
7. By will, descent or survivorship.
8. Pursuant to or in lieu of condemnation.
9. Under a foreclosure or a deed in lieu of a foreclosure to a person holding a mortgage or to a seller under a land contract.
10. Between a corporation or partnership and its shareholders or partners if all of the stock is owned by, or all the partners are, spouses or lineal ascendants or descendants of each other, if the transfer is for no consideration except stock of the corporation or an interest in the partnership and if, in the case of transfers from corporations, the corporation owned the property for at least three years.
11. To a trust if a transfer from the grantor to the beneficiary of the trust would be exempt from this section.
12. Between a limited liability company and its shareholders if all of the stock is owned by, or all the partners are, spouses or lineal ascendants or descendants of each other, if the transfer is for no consideration except stock of the corporation or an interest in the partnership and if, in the case of transfers from limited liability companies the limited liability company owned the property for at least three years.

c) In the event that a parcel subject to special assessments is subdivided by plat or certified survey map and the remaining balance of special assessment due is in excess of \$10,000, said balance may be divided among the newly created parcels on a prorated basis. Any prorated special assessments shall remain on the same payment schedule as the special assessments on the original parcel except if the prorated special assessment is \$500 or less, in which case, the prorated special assessment shall be paid in full within 60 days of the date of proration or until the next property tax bill is due. Interest shall continue to accrue at the original rate for all prorated special assessments.

(Code 1982, § 8.16, ORD 1251, June 25, 2013 ORD 1341, 12/13/2016)

**Sec. 13-97. Reconstruction or replacement of sanitary or storm sewers, streets, and/or laterals**

(1) Special assessments shall be levied for the reconstruction or replacement of improved streets, sewers and/or laterals based upon the estimated life for the streets, sewers and/or laterals being reconstructed or replaced as follows:

<i>Improvement</i>	<i>Estimated Life of Improvement</i>
Concrete pavement with curb and gutter	40 years
Asphalt pavement with curb and gutter	30 years
Sanitary Sewer Lateral	75 years
Asphalt Street with Ditches	25 years
Storm sewer lateral	75 years

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- (2) In the event that the streets, sewers and/or laterals being reconstructed or replaced have not existed for their full useful life as set forth in subsection (1) of this section, the cost to be assessed shall be prorated over such life on an annual basis
- (3) The full cost of the streets, sewers and/or laterals to be reconstructed or replaced shall be levied in accordance with section 13-96 of this Code in the event the original cost was not assessed to the property.
- (4) The entire cost of reconstruction or replacement of sanitary sewer mains shall be borne by the wastewater utility.

(Code 1982, § 8.16, ORD 1251, June 25, 2013)

### **Sec. 13-98. Determination of assessments for street paving on corner lots.**

Repealed

(ORD 1251, June 25, 2013)

### **Sec. 13-99. Special assessment rate for annexed property.**

- (1) Whenever municipal improvements have been or are hereafter installed in a street or highway which lies between the City of Marshfield and property not within the boundaries of the city, and where special assessments were not previously or cannot hereafter be levied against the abutting property lying outside of the city limits, and where such abutting property is hereafter annexed to the City of Marshfield, a charge shall be made for and levied upon such property as a special assessment which shall be equal to the cost of the installation of such improvements if the improvements were installed at the time of such annexation, less any payments previously made or applied, if the payments can be determined. Such charges shall then be collected by the City of Marshfield in the manner and under the terms then in effect in the City of Marshfield for special assessments levied for like improvements within the city limits, including the privilege of paying for such improvements in installments in the manner which may then be applicable.
- (2) The petition for annexation, whether signed by all such property owners or not, and the annexation of the property concerned by the City of Marshfield, shall constitute an agreement on the part of all abutting property owners to pay such charges. No connection shall be permitted to any sanitary or storm sewer until and unless all such charges shall have been levied as set forth in subsection (1) of this section.
- (3) Such charges, when collected, shall be deposited to the following accounts:
  - (a) The sanitary sewer charges to the account of the wastewater treatment utility.
  - (b) All other charges to the general funds of the city.

(Code 1982, § 8.17)

### **Secs. 13-100 Request for Relief from Special Assessment Charges**

- 1) Purpose - The Common Council acknowledges that the levy of special assessments per Section 13-96 of the Municipal Code can result in extreme financial hardship in some instances. It therefore enacts this provision in order to provide necessary relief to persons affected by such a levy. It is the intent and purpose of the Common Council to mitigate the burden of such levies in cases where the loss of the homestead is a reasonable probability, while preserving the right for the ultimate collection of special assessments involved.
- 2) Definitions - Wherever in this section the following words or terms appear they have the meaning indicated, unless the context clearly requires otherwise:

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- a) "Applicant" means a natural person owning and occupying a homestead against which special assessments are levied in an amount which, when considered with the overall financial condition of the person, will, within a reasonable probability, create an extreme financial hardship by the payment of such special assessments.
  - b) "Committee" means the special assessment hardship review committee created under this section.
  - c) "Deferment" means delayed repayment of special assessments.
  - d) "Extended installments" means modifying the repayment terms as provided by the installment assessment notice for the specific special assessment.
  - e) "Homestead" means the dwelling (primary residence only) and so much of the land surrounding it as is reasonably necessary for use as a home, except so much of such land as is vacant and of sufficient size so that it could be divided and sold for development as permitted under appropriate zoning and other regulations. Properties in whole or in part which are utilized as rental properties are ineligible for hardship provisions of this ordinance.
  - f) "Income limits" shall mean limits as defined by Housing and Urban development Income limits Documentation System for the state of Wisconsin adjusted for the year and household size for "Low Income", "Very Low Income" and "Extremely Low Income".
  - g) "Special assessment" shall include assessments levied under s. 66.0701, Wisconsin Statutes.
- 3) Committee created - A special assessment hardship review committee is hereby created. The committee shall be comprised of the following members:
    - Mayor
    - Common Council, President
    - Board of Public Works, Chairperson
    - Finance, Budget & Personal, Chairperson
    - City Administrator
    - Finance Director
    - Director of Public Works
  - 4) The committee may approve deferment of all or part of the assessment, or extended installments for:
    - a) Cases in which the assessment represents a significant fraction of the value of the homestead property.
    - b) Any relation to income or other conditions found by the committee which may, in the opinion of the committee, constitute an undue hardship on the homestead occupant.
  - 5) Applications for a deferment or extended installments under this section shall be filed with the City Clerk in writing upon forms provided by the City within 60 days of the mailing of estimated special assessments. The written notice to the clerk shall state the reasons the owner of the homestead is requesting relief. If during the term of payment of annual installments, an extreme financial hardship arises, as a result of a substantial change in ability to pay due to facts not in existence at the time of the original application period, a homestead property owner may submit an application for hardship consideration in the same manner as described here in.
    - a) The application shall be received by the City Clerk and forwarded to the committee for evaluation and action.
    - b) The minimum special assessment amount for an application shall exceed \$5,000 for residential property.
    - c) The committee may require that an applicant appear before it to answer questions of the committee regarding the application.

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- d) The committee may seek further information from the applicant if the committee deems it necessary.
- e) The committee shall consider the applicant's net worth and payment obligations, amount of proposed special assessments, and other factors relating to a determination. The committee shall thereafter make its determination.
- f) As general guidance for consideration of extended installment terms for repayment of special assessment:
  - Low Income 20 years
  - Very Low Income 25 years
  - Extremely Low Income 30 years
- 6) Application Fees – The applicant shall submit an application fee as noted within the application to cover recording fees associated with the recording of the lien on the subject property as required. Applications which are denied shall have their fees returned.
- 7) Interest - Interest on the amount of special assessment deferred shall be imposed at the same rate as set for the project by the Finance Budget and Personal Committee and approved by the Common Council.
- 8) Tax roll - notice; lien retained. The City Clerk shall record a document with the office of register of deeds containing a description of the property affected; the amount of special assessment deferred or extended installments, and any other appropriate information. Such amount, and interest thereon, shall not be placed on the tax roll until the conditions contained in subsection (9) occur. Nothing provided in this section shall be deemed to extinguish or otherwise affect any lien established by law for the collection of any deferred special assessment, and any such lien is expressly retained.
- 9) Extended installments or deferred payment of special assessments when no longer eligible - Upon transfer of title of such property by any means or refinancing of subject property, the outstanding special assessment balance, deferred or otherwise, and accrued interest, shall become due and payable in full. Upon payment in full, an appropriate satisfaction of payment shall be issued by the Finance Director and recorded in the office of register of deeds.
- 10) Payment to discharge lien - The owner of property affected, or the heirs, personal representative or assigns of such owner, may discharge the lien of such special assessment at any time by paying the outstanding amount of special assessment owing, plus accrued interest.
- 11) Non Waiver - The approval of an application by the committee under this section shall not be deemed to be a waiver of the requirement that, in the event of an appeal of a special assessment under s. 66.0703 (12), Wisconsin Statutes, the amount of the assessment shall be paid in full as a condition to the maintenance of said appeal, as provided by s. 66.0703 (12) (f), Wisconsin Statutes.
  - a) The approval of an application under this section shall not be deemed to waive the right of the City to reassess any invalid special assessment under the provisions of s. 66.0731, Wisconsin Statutes.
- 12) Review of application - The committee shall review applications for deferral of or extended installments of special assessments to determine eligibility under this section and shall provide justification for approval or denial of the application.
- 13) Appeal - Applicants dissatisfied with the decision regarding deferral or extended installments may appeal the decision to the Common Council, by written notice filed with the City Clerk. If there is an appeal, the City Administrator or his/her designee shall inform the Common Council of the basis of the committee's decision. The Common Council shall review the matter and, at its sole discretion, either affirm the committee's decision or elect to amend or modify the terms of extension installments or deferment of special assessments.



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- 14) Simplified Annual Review – Approved applicants shall be required to submit information on an annual basis as determined by the committee. Failure to complete the annual review per the terms set forth by the committee may result in loss of extended installments or deferred payments of special assessments.
- 15) Placement on roll - When a determination is made by the committee that an applicant no longer qualifies for a special assessment hardship due to a change of circumstances since the original application, the amount of special assessments deferred or extended installments, and accrued interest, shall be placed upon the next available tax roll to be collected in the same manner as special assessments per the original installment assessment notice for the project being special assessed.

**Secs. 13-101—13-125. Reserved.**

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### Article V. Trees and Shrubs

#### Sec. 13-126. Trees and shrubs.

- (1) *Purpose.* The intent of this section is to regulate and control the planting, transplanting, removal, maintenance and protection of trees and shrubs in the city and to eliminate and prevent conditions which may result in injury to persons using the streets, sidewalks and public areas and property of the city.
- (2) *Application.* This section shall apply to any trees, shrubs or plants growing or to be planted in any premises owned and controlled by the city or upon private premises where they threaten lives, health, safety or welfare of persons or property.
- (3) *Administration.* The director of public works shall administer the provisions of this section.
- (4) *Definitions.* As used in this section:

*Director of public works* includes any person designated by him to act as his agent.

*Private trees and shrubs* means all trees or shrubs located or to be planted on any lands which are not owned or controlled by the city.

*Public trees and shrubs* means all trees or shrubs located or to be planted on any park, playground or other property owned or controlled by the city or on any public street, alley, sidewalk or highway within the public right-of-way.

- (5) *Care of public trees and shrubs.* Care of public trees and shrubs shall be in accordance with the following:

(a) *Permit required.* A permit shall be required as follows:

1. No person shall plant, transplant, move, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on a public tree or shrub within the city, or cause such acts to be done by others, without first obtaining a written permit from the director of public works or street superintendent.
2. Exceptions. No permit shall be required to cultivate, fertilize or water public trees or shrubs. Authorization may be given to do any work or act described in subsection (5)(a)1 of this section without a written permit whenever it is determined that such work or act will not be detrimental to the public interest and will be in accord with the provisions of this section.
3. Emergencies. If an emergency affects trees or shrubs so that the health, safety or welfare of persons or property is endangered, then whatever immediate action is necessary may be taken. The director of public works shall be notified as soon as is reasonably possible after the emergency has been abated.

(b) *Granting permits.* The procedure for granting permits shall be as follows:

1. If it is determined that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this section, taking into account the safety, health and welfare of the public, location of utilities, public sidewalks, driveways and streetlights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological needs of the species or variety of tree or shrub, a permit shall be issued to the applicant.

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2. The species, location and spacing of public trees and shrubs shall be in accordance with regulations adopted by the director of public works and approved by the council.
  3. As a condition of granting any permit to remove a public tree or shrub, the permittee may be required to plant one or more trees or shrubs in place of the one removed.
- (c) *Form; expiration; inspection.* Permits shall be issued by the director of public works on forms prepared by him and shall include a description of the work to be done and shall specify the species or variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work done under such permit must be performed in accordance with the terms thereof. Permits issued under this subsection shall expire six months after date of issue.
- (d) *Permits to public utilities.* Whenever a permit is issued under this section to a public utility to move, trim, prune, cut, disturb, alter or do surgery on any public tree or shrub, the director of public works shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit, and the expense of such inspection or supervision shall be charged to the utility.
- (6) *Injury to trees and shrubs.* No person shall without the consent of the owner in the case of a private tree or shrub, or without a written permit from the director of public works in the case of a public tree or shrub, do, or cause to be done by others, any of the following acts:
- (a) Secure, fasten or run any rope, wire, sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
  - (b) Break, injure, mutilate, deface, kill or destroy, or permit any fire to burn where it will injure any tree or shrub.
  - (c) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain, or be emptied on or about any tree or shrub.
  - (d) Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby public trees or shrubs which may be injured by such operations.
  - (e) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub designed to permit access of air, water and fertilizer.
- (7) *Maintenance of trees and shrubs.* Maintenance of trees and shrubs shall be in accordance with the following:
- (a) *Trees to be kept trimmed over streets, alleys, public lands, sidewalks and multi-use paths and trails.* Trees and shrubs standing upon any private premises adjacent to any public street, alley (where vehicles or trucks may come in contact with over-hanging branches), multi-use path and/or trail, or park, playground shall be kept trimmed by the owner so that the lowest branches projecting over the public area provide a clearance of not less than 13- 1/2 feet. Where a private tree is adjacent to an unopened right of way and/or where a private tree is over a public sidewalk, all over-hanging branches shall be kept trimmed to a minimum of 8 (eight) feet. These provisions may be waived for newly planted trees if it is determined that they do not interfere with public travel, obstruct the light of any streetlight or endanger public safety. Any tree or shrub not so trimmed is a public nuisance.
  - (b) *Obstruction of view at intersections prohibited.* Obstruction of the view at intersections is prohibited as follows:
    1. Intersections where traffic devices are not installed. At all intersections where traffic devices are not installed, a sight triangular area at all corners shall be established by measurements along intersecting street centerlines, and within the sight triangular area and within the setback area

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along the street between corners no person shall install, set out, maintain or allow the installation, setting out or maintenance of any hedges, shrubbery, natural growth or fence higher than three feet above the level of the center of the adjacent intersection. This shall not apply to trees trimmed to the trunk to a line at least eight feet above the level of the center of the intersection or saplings or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave a clear and unobstructed cross-view. The triangular area shall be determined by connecting points on the street centerlines which are 90 feet from the intersection of the centerline. For purposes of this subsection, the term "traffic devices" shall include only stop signs and traffic control signals as defined by the Wisconsin Statutes.

2. Intersections where traffic devices are installed. At all intersections where traffic devices are installed, a sight triangular area at all corners shall be established by measurements along intersecting street centerlines, and within the sight triangular area and within the setback area along the street between corners no person shall install, set out, maintain or allow the installation, setting out or maintenance of any hedges, shrubbery, natural growth or fence higher than three feet above the level of the center of the adjacent intersection. This shall not apply to trees trimmed to the trunk to a line at least eight feet above the level of the center of the intersection or saplings or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave a clear and unobstructed crossview. The triangular area shall be determined by connecting points on the street centerlines which are 90 feet from the intersection of the centerline as to through streets. The triangular area shall be determined by connecting points on the street centerlines which are 60 feet from the intersection of the centerline, as to all other streets. For purposes of this subsection, the term "traffic devices" shall include only stop signs and traffic control signals as defined by the Wisconsin Statutes.
  - (c) *Maintenance of public trees and shrubs.* The director of public works shall plant, trim, spray, preserve, renew and remove public trees and shrubs or cause such work to be done as may be necessary to ensure the safety or preserve the symmetry and beauty of public streets or grounds and to protect public sidewalks, streets, sewers and mains from damage or injury.
  - (d) *Regulation of private trees and shrubs.* Whenever any tree or shrub or part thereof growing or located upon private premises is a public nuisance or endangers the life, health, safety or property of the public, or is infested with parasites or insect pests or disease which may spread to public trees and shrubs, the director of public works shall take action to abate such nuisance, pursuant to chapter 11 of this Code.
- (8) *Interference prohibited.* No person shall prevent, delay or interfere with the city or its agents, employees or servants while they are engaged in carrying out any work or activities authorized by this section.
- (9) *Cost of work.* The cost of work done by the city shall be paid as follows:
  - (a) In the case of private trees or shrubs, the entire cost of any work which the city may do or have done in accordance with this section or established policy of the city, or because of an emergency, shall be paid by the property owner.
  - (b) An accurate record of the costs of the work shall be kept and a report made to the director of public works. The property owner shall be billed for such costs and if payment is not made therefor within 30 days, the amount thereof shall be entered in the new tax roll as a special tax against such real estate.

(Code 1982, § 8.10)