

Chapter 232

STREETS AND SIDEWALKS

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[HISTORY: Adopted by the Village Board of the Village of Albany as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

- Building construction -- See Ch. 86.
- Driveways -- See Ch. 114.
- Erosion control -- See Ch. 122.
- Obstructing streets and sidewalks -- See Ch. 202, § 202-2.
- Operation of snowmobiles on sidewalks -- See Ch. 223, § 223-5.
- Trees and shrubs -- See Ch. 241.
- Utilities -- See Ch. 249.
- Floodplain zoning -- See Ch. 270.
- Subdivision of land -- See Ch. 272.
- Zoning -- See Ch. 273.

ARTICLE I

Grades

[Adopted 5-11-1992 as Title 6, Ch. 1
of the 1992 Code]

§ 232-1. Establishment of grades.

A. Grades to be established. The grade of all streets, alleys and sidewalks shall be established by the Village Board and the same recorded by the Village Clerk-Treasurer in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.

B. New sidewalk grade. Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Village Board shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

§ 232-2. Alteration of grade.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Albany by any means whatsoever unless authorized or instructed to do so by the Village Board or Street Superintendent. All such alterations of grade shall be recorded in the office of the Village Clerk-Treasurer.

§ 232-3. Underground utilities.

A. Elevation. The grade or elevation of all underground construction shall be a minimum of three feet below the established grade of the street, alley, park, public property or easement. The three feet shall be measured between the top of the established grade and the top of the underground construction.

B. Approval of location. The location of any and all such underground construction must have the approval of the Street Superintendent.

C. Filing plans. Complete plans for any such construction must be filed with and be approved by the Street Superintendent before construction can begin.

D. Inspection. On request of the Street Superintendent, the utility company must provide opportunity for him to check any construction before it may be covered.

E. Conflict with other utilities. If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction, or of the storm sewer, at the election of the Street Superintendent and in accordance with his directions and specifications.

F. Establishment of grade. At the request of the utility company, the Street Superintendent shall give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.

G. Emergency. In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Street Superintendent as soon thereafter as is reasonably possible.

H. Restoration of surface. In the event of any such underground construction, the utility company shall leave the surface of the ground or road in the same condition as before said work was commenced, and in the event of its failure so to do, the village may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of §§ 232-6 and 232-7.

I. Nonrelief from obligations. Compliance with this section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway or any other improvements which may become necessary, nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

ARTICLE II

General Regulations

[Adopted 5-11-1992 as Title 6, Ch. 2
of the 1992 Code]

§ 232-4. Removal of rubbish and dirt from sidewalks.

No owner or occupant shall allow the sidewalk abutting on his premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Village Board or its designee, the Village Board or its designee may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer, who shall spread the cost on the tax roll as a special tax against the premises, pursuant to W.S.A. s. 66.60(16), or such cost may be recovered in an action against the owner or occupant.

§ 232-5. Construction and repair of sidewalks.

A. Board may order. The Village Board may determine that sidewalks or curb and gutter may be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the village. The Village Board may determine or change the width or grade of any street or sidewalk.

B. Permit required. No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village of Albany unless he is under contract with the village to do such work or has obtained a permit therefor from the Village Clerk-Treasurer or Superintendent of Public

Works at least three days before work is proposed to be undertaken. No fee shall be charged for such permits.¹

C. Standard specifications for sidewalk.

(1) General. Concrete sidewalk construction shall meet the specifications and provisions set forth in this section and shall be constructed in locations and to line and grade as established by the village.

(2) Grading. Prior to construction, ground on which sidewalks are to be placed shall be brought to within three inches of subgrade by the contractor.

(3) Subgrade. Subgrade shall be three inches of sand fill, thoroughly and uniformly compacted and brought to correct grade placing of concrete and thoroughly wet down immediately before concrete is placed. Soft and unsuitable subgrade material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed.

(4) Concrete. The minimum quantity of cement per cubic yard shall be six ninety-four-pound sacks. Concrete shall be mixed for at least one minute. Gravel shall be of good quality and washed. Concrete shall test 2,000 pounds' compression in 28 days.

(5) Jointing. Expansion joints 1/2 inch thick and four feet wide shall be placed at fifty-foot maximum intervals. At all places where a walk intersects another walk or curblin, a one-half-inch expansion joint shall be placed.

(6) Slope. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of 1/4 inch per foot of width of sidewalk. All joints and edges shall be finished with a one-quarter-inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a six-inch strip of street property left between the property line and the edge of the sidewalk.

(7) Width and thickness. Residential walks shall be five feet in width and not less than four inches thick, except within driveway approaches, where the minimum thickness shall be six inches, provided that walks in residential areas may be repaired or replaced to a width not less than the existing width on the effective date of this section. Sidewalks in front of commercial or industrial establishments shall be not less than eight feet in width and five inches in thickness, except within driveway approaches, where the minimum thickness shall be seven inches. Where possible, sidewalks shall be located nine feet from the curb. One-half-inch reinforcement rod shall be used when replacing or repairing sidewalks over alley entrances.

(8) Finishing. The concrete shall be struck off true to grade, finished smooth and given a broom finish. All edges shall be rounded. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for 48 hours and in cold weather (below 50° F.) for 96 hours. No concrete shall be poured when the temperature may be expected to fall below 35° F. in any seventy-two-hour period or upon frozen subgrade.

(9) Curing. Concrete shall be kept moist by sprinkling, covering or a combination of both for a minimum of five days.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(10) Higher standards. Where deemed necessary by the village, higher sidewalk standards may be required by the Village Board.

D. Repair or replacement of defective sidewalks. Pursuant to W.S.A. s. 66.615, the Village Board may order at any time property owners to repair or remove and replace any sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to so repair or remove and replace such sidewalk within 30 days after service of the notice provided in W.S.A. s. 66.615(3)(c), the Village Board shall repair or construct such sidewalk, and the Village Clerk-Treasurer shall enter the total cost thereof upon the tax roll as a special assessment against said lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the Village Board or its designee shall direct the property owner to make repairs within seven days. If the property owner shall fail to repair such sidewalk within the required period, the Village Board shall make the necessary repairs, and the Village Clerk-Treasurer shall enter the total cost thereof on the tax roll as a special tax against said parcel. Replacement sidewalk width shall be consistent with the existing sidewalk.²

E. Illegal sidewalks. No sidewalk which shall be constructed contrary to the provisions of this section shall be considered a legal sidewalk, and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

§ 232-6. Excavations of streets, alleys, public ways and grounds; fees.

A. Permit required. No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ground, public sidewalk or village-owned easement within the Village of Albany without a permit therefor from the Village Board, or its designee, or the Village Clerk-Treasurer.

B. Application for permit. The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the Village Board or its designee, at the time the permit is applied for, sufficient information relating to the work to be done, including the general location and nature of the work and the method the applicant proposes to use in doing the work. The Village Board or its designee shall determine if sufficient information is submitted.

C. Exception. The provisions of this section shall not apply to village excavation work done under the direction of the Village Board or its designee.

D. Validity of permit. Permits shall be valid for a period of 30 days from the date of approval, except as provided for under § 232-7G for pavement replacement.

E. Renewal of permit. If operations have begun under an approved permit and will continue beyond the thirty-day validation period, the permittee shall apply for a thirty-day permit renewal by written request to the Village Board or its designee and payment of a renewal permit fee of \$5. Permit renewals shall be issued at the discretion of the Village Board or its designee.

F. Village standards; fees.

(1) Village standards. All street work shall be performed in accordance with the current standard specifications for street openings found in this section and § 232-7. Any

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.

(2) Fee. The fee for a street opening permit shall be \$5 plus actual village expenses. Permit fees shall be paid to the Village Clerk-Treasurer, who shall issue his receipt therefor.

G. Insurance required. A permit shall be issued only upon the condition that the applicant submit to the Village Clerk-Treasurer satisfactory written evidence that the applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one person, \$500,000 for one accident and property damage coverage of not less than \$500,000.

H. Bond.

(1) Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement that he will indemnify and save harmless the Village of Albany and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Village Board for a period of one year, and that he will pay all fines or forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Village Board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the village. Such statement shall also guarantee that, if the village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one year.

(2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the village. Failure to correct deficiencies shall result in a one-year revocation of the right to obtain a street opening permit. The village shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus 20% for administration.

(3) The person who does such restoration shall be responsible therefor for one year from the date of the completion of the work and shall file a written guaranty or surety bond to that effect with the village in an amount determined by the Village Board.

(4) Whenever the Village Board shall find that any such work has become defective within one year of the date of completion, he shall give written notice thereof to the contractor or to his surety, stating the defect, the work to be done, the cost thereof and the period of time deemed by the Village Board to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the village for the cost of doing the work as set forth in the notice.

(5) An annual bond may be given under this section covering all excavation work done by the principal for one year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Village Board as necessary to adequately protect the public and the village.

§ 232-7. Regulations governing excavations and openings.

A. Frozen ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15 and April 1 except where it is determined by the Village Board or its designee to be an emergency excavation.

B. Protection of public.

(1) Every opening and excavation shall be enclosed with sufficient barriers, signing and such other traffic control devices as may be required by the Village Board or its designee and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Village Board or its designee, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet from where pipe or conduit has been laid.

(2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the village in defending any action brought against it for damages, as well as the cost of any appeal that may result from the neglect by such person or his employees to any necessary precaution against injury or damage to persons, vehicles or property of any kind.

(3) Unless otherwise approved, a minimum of one lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event that traffic is limited to less than one lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.

(4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Police Department 24 hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Subsection B(1).

(5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified, in writing or by personal contact, at least 12 hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Subsection G.

C. Pavement removal.

(1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his work and in accordance with all applicable codes and regulations.

(2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application

form. The Village Board or its designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

(3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curbline or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

(4) The Village Board or its designee may order the permittee to remove and replace up to one full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to ensure a full depth of concrete at the joint.

D. Excavation.

(1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.

(2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

E. Backfilling.

(1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight inches in their greatest dimension, frozen lumps or other material which, in the opinion of the Village Board or its designee, is unsuitable.

(2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Village Board or its designee, hauled in.

(3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.

(4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (twelve-inch maximum) shall be uniformly compacted to a dry density of at least 95% of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.

(5) All excavations shall be subject to testing by the village. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.

(6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.

F. Notice. It shall be the duty of the permittee to notify the Village Clerk-Treasurer or Street Superintendent and all public and private individuals, firms and corporations affected by the work to be done at least one business day before such work is to commence. The Village Clerk-Treasurer or Street Superintendent shall also be notified at least four hours prior to backfilling and/or restoring the surface.

G. Pavement replacement.

(1) Backfill material shall be left below the original surface to allow for four inches of three-inch crushed stone and four inches of three-quarter-inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter-inch crushed stone.

(2) Bituminous pavement shall be placed the full depth of the existing pavement or 2 1/2 inches, whichever is greater. Bituminous pavement shall be placed in a maximum of a one-and-one-half-inch base layer and a one-inch top layer, with each layer compacted to maximum density, and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than 1/4 inch as measured with a ten-foot straight edge.

(3) Concrete pavement shall be placed to the full depth of the existing pavement or seven inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three days. The bars shall be installed as directed by village officials.

(4) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1, except as provided above. Permanent pavements shall be replaced within 60 days of the date of the permit.

H. Emergency excavation. In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley, easement, way or ground and his agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the Police Department immediately.

I. Excavation in new streets limited. Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Village Clerk-Treasurer shall notify, in writing, each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving,

no permit shall be issued to open or excavate said street for a period of five years after the date of improvement or repaving unless, in the opinion of the Village Board or its designee, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.

§ 232-8. Obstructions and encroachments.

A. Obstructions and encroachments prohibited. No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsections B and C.

B. Exceptions. The prohibition of Subsection A shall not apply to the following:

(1) Temporary encroachments or obstructions authorized by permit under § 232-9 pursuant to W.S.A. s. 66.045.

(2) Building materials for the period authorized by the Building Inspector which shall not obstruct more than 1/2 of the sidewalk or more than 1/3 of the traveled portion of the street and which do not interfere with the flow in the gutters.

(3) Excavations and openings permitted under §§ 232-6 and 232-7.

C. Standards. Property owners may place certain fixtures on sidewalks which immediately adjoin their property if the following requirements are met:

(1) The property must be located in an area used for commercial uses.

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

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

D. Removal by village for sidewalk obstructions and encroachments. In addition to any other penalty imposed, if any village enforcement official determines that a sidewalk is unlawfully obstructed in violation of this section, he shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within 24 hours.

E. Removal by village for obstruction and encroachments located in the village streets, alleys, public grounds or lands dedicated for public use. In addition to any other penalty imposed, if any village enforcement official determines that a village street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within 24 hours.

F. Failure to remove obstruction.

(1) If the owner or occupant fails to remove the obstruction within the time period established in Subsection D or E respectively, any village enforcement official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within 10 calendar days from receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Village Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.

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

§ 232-9. Street privilege permit; fee.

A. When required. Permits for the use of the streets, alleys, sidewalks or other public ways or places of the village may be granted to applicants by the Village Clerk-Treasurer for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided that such applicant has complied with the other requirements of this section and has obtained a building permit if required by this Code. The Village Clerk-Treasurer shall request advisory recommendations from the Chief of Police, Street Superintendent and/or Building Inspector prior to issuance of the permit. Village officials may attach conditions to the permit, including proof of liability insurance.

B. Bond. No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk-Treasurer a bond in an amount determined by the Village President not exceeding \$5,000, conditioned that the applicant will indemnify and save harmless the village from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the village resulting from such building or moving operations. Upon request, the Village Board may waive this requirement.

C. Fee. The fee for a street privilege permit shall be in the sum of \$5, plus any actual village costs.

D. Conditions of occupancy. The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Village Board, Chief of Police or Building Inspector for violation thereof:

(1) Such temporary obstruction shall cover not more than 1/3 of any street or alley.

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

(3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four feet in width, guarded by a closed fence at least four feet high on both sides, may be maintained during the period of occupancy.

(4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Chief of Police, shall continue during all hours of the day and night.

(5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

(6) Buildings shall be moved only in accordance with the route prescribed by the Chief of Police.

(7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.

E. Termination. All street privilege permits shall automatically terminate at the end of three months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Village Clerk-Treasurer.

F. Removal by village. In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within 24 hours after such notice from the Chief of Police or Building Inspector to do so, it shall be the duty of the Chief of Police or Building Inspector to remove such obstruction and make return of the costs and expenses thereof to the Village Clerk-Treasurer, who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

State Law Reference: W.S.A. s. 66.045.

§ 232-10. Snow and ice removal.

A. Removal from sidewalks. The owner, occupant or person in charge of any parcel or lot which fronts upon or abuts any sidewalk shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within 24 hours from the time the snow ceases to accumulate on said sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians.

B. Notice and removal of snow from sidewalks. If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection A, the Street Superintendent and other designated village officials and employees shall take the following action:

(1) Hazardous conditions. If the Street Superintendent or other designated village officials and employees determine that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed within two hours from the delivery of the notice. In the event that the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the Street Superintendent and other designated village officials and employees shall immediately cause the removal of the snow and/or ice. The police officer and other designated village officials and employees shall send a written notice to the last-known address of the property owner, notifying him that a hazardous condition existed which required immediately abatement.

(2) Snow and ice not to encroach. No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five feet of the street right-of-way and the sidewalks exist from the village right-of-way to the curbline. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.

C. Enforcement. The Street Superintendent and other designated village officials and employees are hereby authorized and directed to enforce the provisions of this section.

D. Continued violations. Each twenty-four-hour period where a violation occurs shall constitute a separate offense under this section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this section.

E. Abatement after notice. Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection B(1) and (2) after receiving a written notice shall result in the village causing the removal of said snow and/or ice.

F. Expense. An account of the expenses incurred by the village to abate the snow and/or ice hazard shall be kept, and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within 10 calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the Village Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by W.S.A. s. 66.615(5).

G. Penalty. In addition to the provisions set forth in this section, any person, firm or corporation which violates the provisions of this section shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.

State Law Reference: W.S.A. ss. 66.60(16) and 66.615(3)(f) and (5).

§ 232-11. Terrace areas.³

A. Definition. The definition of "terrace" shall be as defined in Chapter 241, Trees and Shrubs, § 241-2.

³Editor's Note: See Ch. 241, Trees and Shrubs.

B. Noxious weeds; paving. All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Village Board or its designee. Basketball backstops, statuary, structures, flagpoles and other objects shall not be placed in the terrace area.

C. Responsibility to maintain. Every owner of land in the village whose land abuts a terrace is required to maintain, or have maintained by his tenant, the terrace directly abutting such land as provided in this section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

§ 232-12. Streetlamps.⁴

Streetlamps shall be placed at each street intersection. Requests for additional streetlamps by residents shall require a public hearing to be held at a Street and Utility Committee meeting, with notification of neighboring residents.

§ 232-13. Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

§ 232-14. Requests for improvements.

Requests or petitions by village property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Village Board on or before September 1, to be considered for installation in the following year.

§ 232-15. Unlawful dumping on streets.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley or on any public property or upon any property of another without the express permission of the owner or occupant thereof.

§ 232-16. Obstruction of public ditches.

No person shall in any manner obstruct or cause to be obstructed the free passage of water in any public gutter, ditch, culvert, swale or drain or place or cause to be placed any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain.

§ 232-17. Curb and gutter construction and repair.

⁴Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Except for new curb and gutter construction required under the village's land division regulations (Chapter 272, Subdivision of Land), all curb and gutter within the Village of Albany shall be laid, repaired or replaced by the village pursuant to either of the following two methods:

A. Petition from abutting property owners. In case of a petition to the village to build, replace or repair any curb and gutter signed by the abutting property owners, such petition shall, whether specifically stated in the petition or not, authorize said village to build said curb and gutter abutting the property owned by said petitioners in such manner as the Village Board shall direct. The work shall be done either directly by the village or by a private contractor hired by the village with or without bids and to charge the cost thereof to the abutting lots or parcels of lands in such portions as the Village Board may determine and to enter the same on the tax roll as a special tax against such lots of parcels and to collect the same in all respects like other taxes on real estate.

B. Village Board determination without petition from abutting property owners. Whenever the Village Board shall, by resolution, determine that a curb and gutter be laid, rebuilt or repaired on any public street within the village, it shall proceed according to W.S.A. s. 66.60 and 66.62.

§ 232-18. Street numbers.

A. Buildings to have street numbers. Each principal building in the village shall be assigned to an official street number by the Village Clerk-Treasurer. All lots and parts of lots in the village shall be numbered in accordance with a street numbering map on file in the office of the Village Clerk-Treasurer. Plats shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on the map.

B. Street numbers to be displayed. The owner, occupant or agent in charge of the premises shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him the official street number assigned to that building as provided in Subsection A hereof. The physical numbers provided herein shall be not less than 2 1/2 inches high on a background of not less than three inches. Each required number shall be affixed on the particular building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts. For buildings abutting also on a public alley, the street number shall also be affixed in such location that it may be seen in like manner from such alley.

C. Noncompliance. If the owner or occupant of any building neglects for 20 days to duly attach and maintain the proper numbers on the building, the village shall serve him a notice requiring him to properly number the same, and if he neglects to do so for 10 days after service, he shall be subject to a forfeiture as provided in Chapter 1, General Provisions, § 1-19.

§ 232-19. Payment for public improvements.⁵

A. Street reconstruction and repair. Street reconstruction and repair shall be the responsibility of the Village. New construction shall be pursuant to Chapter 272, Subdivision of Land.

B. Sidewalk construction, replacement and repair. Initial sidewalk construction shall be at the expense of the property owner. However, the expense of repair or replacement of

⁵Editor's Note: See also Ch. 12, Assessments, Special.

sidewalks and curb and gutter previously installed shall be shared by the property owner and the village on a percentage basis set during special assessment procedures.⁶

C. Curb and gutter.

(1) Responsibility. Curb and gutter shall be the responsibility of the abutting property owner. Curb and gutter dimensions shall conform to the standards of the State Department of Transportation, Division of Highways. Assessments for the cost of curb and gutter shall be the responsibility of the property owner, and the cost therefor shall be charged pursuant to W.S.A. s. 66.60(16). The property owner may elect to pay an assessment levied hereunder on a five-year installment basis with interest as determined by the Village Board. When curb and gutter is replaced, the property owner shall pay the difference between the cost or replacement and the value of the existing curb and gutter as determined by the Street Committee of the Board.⁷

(2) Special assessments. Special assessments shall be determined according to benefits and levied on a front-foot basis. The special assessment on lots which abut on only one public street shall be determined by multiplying the total number of front footage by the special assessment charge per foot. The special assessments on corner lots shall be determined according to benefits and levied on a front-foot basis. The maximum assessment to be levied on a corner lot will be 165 lineal feet, provided that such corner lot cannot be divided into more than one lot according to Chapters 270, Floodplain Zoning, Chapter 272, Subdivision of Land, and Chapter 273, Zoning. If such corner lot can be divided into more than one lot, then the entire frontage will be assessable.

D. Sewer and water mains. All water and sanitary sewer main extensions within the village shall be extended on either a special assessment or cost advancement basis.

E. Special assessment method.

(1) Construction determination. All water and sanitary sewer main extensions shall be installed, or authorized to be installed, by the Village Board or appropriate committee thereof. The final decision as to location and priorities of the new construction for sewer and water mains shall be decided by the Village Board or appropriate committee thereof.

(2) Special assessment policies. Water and sewer main extensions shall be financed by special assessments when deemed advisable by the Village Board. In general, the special assessment method shall be used for main extensions to service areas in immediate need of service or which are likely to develop and need service within 10 years. All special assessments shall be levied in accordance with the provisions of W.S.A. s. 66.60 and of this section.

(a) Front-foot basis. Special assessments shall be determined according to benefits and levied on a front-foot basis. The amount levied for each front foot of benefiting abutting property on each side of the street shall be determined as follows: The total estimated cost of the extension, including legal services, finance carrying charges, engineering, inspection, grading and the necessary street resurfacing, and other direct and indirect costs, less unapportionable costs as defined in this subsection, shall be determined. Such amount shall be divided by the total number of front feet of property served by the main to arrive at an amount per foot.⁸

⁶Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁷Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁸ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(b) Single frontage lots. The special assessment on lots which abut on only one public street shall be determined by multiplying the total number of front footage by the special assessment charge per foot.

(c) Corner lots. The special assessments on corner lots shall be determined according to benefits and levied on a front-foot basis:

[1] If the mains to be extended will abut on both sides of a corner lot, the assessable front footage shall be 100% of the total abutting frontage up to 165 feet.

[2] If the mains to be extended will abut on one side of a corner lot, the assessable front footage shall be the total frontage of the side which the main abuts.

[3] If the mains to be extended will abut a corner lot that abuts an existing main, the assessable front footage shall be the total frontage of the side which the new main abuts.

(d) The charge per front foot or the total assessment on any one parcel shall not exceed the benefits and damages thereto as determined by the Village Board.

F. Cost advancement method. Water and sewer main extensions shall be financed by cost advancements when deemed advisable by the Village Board. In general, the cost advancement method shall be used only when application is made for public water or sewerage service which would require the extension of mains through sparsely occupied areas to serve such applicant or through areas which in the judgment of the Village Board are unlikely to develop in the next 10 years. Where extensions are authorized on a cost advancement basis, the procedure shall be as follows:

(1) The applicant shall deposit with the Village Clerk-Treasurer a sum sufficient to pay the total estimated cost of the extension, less unapportionable costs, if any.

(2) Such deposit shall be made before construction is started or contracted. If the actual apportionable cost is less than the amount deposited, the excess of the deposit over the cost shall be refunded to the applicant within 30 days after payment for the completed project. If the apportionable cost exceeds the deposit, the applicant shall pay the deficiency prior to the granting of water or sewerage service.

(3) Any property connected to such main after its installation, other than the applicant, shall pay to the village a connection charge determined by the Village Board, which shall be equivalent to the amount of front foot special assessments which would have been levied by the village at the time such extension was made.

(4) All connection charges collected by the village under Subsection F(3) shall be paid to the applicant or his assigns or heirs unless specifically provided otherwise, in writing.

G. Unapportionable costs; sewer and water mains. For the purpose of this section, unapportionable costs shall include any additional expenses incurred for mains in excess of eight-inch diameter or for sewer mains in excess of eight-inch diameter or for fire protection service and 100% of the cost of mains in street intersections.⁹

H. Lateral connection fee. No connection shall be made to any sewer or water lateral installed by the village unless a lateral connection fee shall have been paid therefor. Such lateral

⁹Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

connection fee shall be determined from time to time by the Village Board by resolution on the basis of the average previous and estimated future costs.

I. Payment. Unless otherwise provided in the preliminary or final special assessment resolutions, all special assessments levied under this section may be paid in five equal annual installments, with interest at the rate of 10%, in accordance with the provisions of W.S.A. s. 66.54(7). The Village Board may by resolution permit the deferred payment of special assessments on unplatted and undeveloped property until the property is connected to the main, but not longer than five years (10 years for corner lots) following the date of the levy, in accordance with W.S.A. s. 66.605.

J. Waivers. The Village Board may, without any notice or hearing hereunder, levy and assess the whole or any part of the cost of any village work or improvement as a special assessment upon the property benefited thereby whenever notice and hearing thereon is, in writing, waived by all owners of property affected by such special assessment.

K. Other authority retained. It is not intended by this section to deprive the Village Board of any power conferred by W.S.A. ss. 66.53 through 66.698, but by limitations contained therein, and any procedures prescribed therein for the levy of special assessments or special charges shall not apply to special assessment authority contained in this section.

L. Tree care. Tree care shall be the responsibility of the abutting property owner for trees within the terrace, provided that the cost of removal of trees within the terrace shall be paid by the property owner. The property owner shall be responsible for filling the holes left by stump or tree removal.

M. Storm sewers. Storm sewers may be provided by the village at the discretion of the Village Board.

ARTICLE III

Street Use Permits

[Adopted 5-11-1992 as Title 7, Ch. 7
of the 1992 Code]

§ 232-20. Purpose.

The streets in possession of the village are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Village Clerk-Treasurer may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this article is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the village can be protected and maintained.

§ 232-21. Application.

A written application for a Street Use Permit by persons or groups doing the same shall be made on a form provided by the Village Clerk-Treasurer and shall be filed with the Village Clerk-Treasurer. The application shall set forth the following information regarding the proposed street use:

A. The name, address and telephone number of the applicant or applicants.

B. If the proposed street use is to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.

C. The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.

D. The date and duration of time for which the requested use of the street is proposed to occur.

E. An accurate description of that portion of the street proposed to be used.

F. The approximate number of persons for whom use of the proposed street area is requested.

G. The proposed use, described in detail, for which the Street Use Permit is requested.

§ 232-22. Representative at meeting.

The person or representative of the group making application for a Street Use Permit shall be present when the Village Board gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

§ 232-23. Review by Chief of Police.

Before any application for a Street Use Permit is considered by the Village Board, the application shall be reviewed by the Chief of Police for his recommendation as to the effect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.

§ 232-24. Denial of Permit.

A. An application for a Street Use Permit may be denied if:

(1) The proposed street use is primarily for private or commercial gain.

(2) The proposed street use would violate any federal or state law or any ordinance of the village.

(3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.

(4) The application for a Street Use Permit does not contain the information required above.

(5) The application requests a period for the use of the street in excess of five days.

(6) The proposed use could equally be held in a public park or other location.

B. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Village Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

§ 232-25. Insurance.

The applicant for a Street Use Permit may be required to indemnify, defend and hold the village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the Village of Albany. The applicant may be required to furnish a performance bond prior to being granted the permit.

§ 232-26. Termination of Permit.

A Street Use Permit for an event in process may be terminated by the Chief of Police if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Village of Albany. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.