

CHAPTER 2

Drainage, Development and Construction

| <i>Section Number</i> | <i>Title</i> | <i>Ordinance Number</i> | <i>Date of Ordinance</i> |
|-----------------------|--|-------------------------|--------------------------|
| 14-2-1 | Intent | | |
| 14-2-2 | Village Engineering Department | | |
| 14-2-3 | Comprehensive Drainage Plan | | |
| 14-2-4 | Minimum Standards for Construction of Roads and Highways | | |
| 14-2-5 | Private Driveways | 2009-12 | 01/05/2010 |
| 14-2-6 | Highway Openings Regulated | 2009-01 | 01/20/09 |
| 14-2-7 | Disruption of Drainage | | |

SEC. 14-2-1 INTENT.

It is the intent and purpose of this chapter to protect the public health, safety and welfare of the Village and its residents by prescribing minimum standards regulating the conduct of persons, firms, corporations, and public utilities in land development and construction within the Village of Caledonia.

SEC. 14-2-2 VILLAGE ENGINEERING DEPARTMENT.

- (a) There shall be a Village Engineer appointed by the Village Board who shall have authority to insure compliance with this chapter. The Village Engineer shall serve as an advisor to the Village Board on land development, storm water drainage, road and highway construction and any other matters that the Village Board may from time to time direct.
- (b) The Village Engineer shall administer and oversee all development under this chapter and shall have the authority to establish such procedures in accord with this chapter for the submission and review of development and construction plans as are necessary to effectuate the intent of this chapter.
- (c) The Village Engineer, with the approval of the Village Board, may appoint a qualified person, firm or corporation as Village Road Inspector for a particular project. The Village Road Inspector shall receive such compensation as the Village Board may determine.
- (d) In the absence of a resident Village Engineer, the Village Board may appoint a qualified person, firm or corporation as Acting Engineer for a particular project with the same authority as specified in this chapter for the Village Engineer.

SEC. 14-2-3 COMPREHENSIVE DRAINAGE PLAN.

- (a) The Village of Caledonia Comprehensive Drainage Plan, as adopted by the Village Board on July 6, 1977 as amended or recreated from time to time, shall be referred to as a guide in the design and construction of any drainage facility within the Village of Caledonia.
- (b) The Village Engineer shall have responsibility for interpreting and applying the comprehensive drainage plan in reviewing and approving any plan submitted for approval under this chapter. The Village Engineer's interpretation of the Comprehensive Drainage Plan shall be controlling for the purposes of any such review. The Village Engineer may vary the plan, if, in his or her judgment, it is necessary for the proper drainage of the property under review or lands in the vicinity of the property under review.
- (c) The Village Engineer shall have responsibility for interpreting and applying the Comprehensive Drainage Plan in reviewing and approving any building site plan submitted for approval under Title Fifteen of this Code of Ordinances.

SEC. 14-2-4 MINIMUM STANDARDS FOR CONSTRUCTION OF ROADS AND HIGHWAYS.

- (a) **Right-of-way.**
 - (1) No road or highway right-of-way shall be accepted by the Village unless such road or highway right-of-way is at least sixty (60) feet in width, depending upon the subdivision plat approved by the Village, and is built in accordance with the specifications contained in this section. A narrower road or highway right-of-way may be approved for good cause, on such terms and conditions, as the Village Board deems fit, on a majority vote of the Village Board, and with the approval of the Wisconsin Department of Transportation where the width of the right-of-way falls below the minimum requirements set forth in Section 86.26, Wis. Stats or Chapter 236 of the Wisconsin Statutes, as applicable. If deemed necessary by the Village Board, a wider right-of-way may be required.
 - (2) All dead end roads shall be provided with a cul-de-sac with a minimum right-of-way radius of eighty (80) feet.
 - (3) Where roads may be extended in the future, the Village Board may authorize the construction of a "T" at the end of a road, provided that the right-of-way for the cross members of the "T" shall not be less than one hundred thirty two (132) feet in length by thirty three (33) feet in width.
- (b) **Subgrade.**
 - (1) All work under this subsection shall be carried out per the requirements of Section 205, Section 207, and Section 211 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
 - (2) All black dirt and other topsoil shall be removed from the right-of-way and no such black dirt or topsoil shall be used in the roadbed within nineteen (19) feet of the centerline of the right-of-way.
 - (3) The finish subgrade shall be a total of six feet wider than the finished road surface width. The finish subgrade crown shall be 0.30 feet higher than the baseline of the

subgrade at the center of the roadbed. The finish subgrade shall not be covered until it is inspected and approved by the Village Engineer.

- (4) Before the granular base material is placed, the subgrade shall be compacted to such a degree as to pass the compaction test outlined in paragraph 5 of this subsection. If necessary, the subgrade may be stabilized by the construction of a coarse stone or gravel-working platform to achieve this purpose.
- (5) The compaction test shall be carried out by the Village Engineer. One of the Village's tandem axle dump trucks shall be slowly driven over the subgrade.
 - a. The truck shall have a gross weight of no less than 56,000 pounds and no more than 60,000 pounds.
 - b. The truck's tires shall exert a pressure of no less than 45 pounds per square inch.
 - c. The subgrade and granular base course shall be compacted to such a degree that it will not excessively rut, deflect or creep beneath the tires of the truck
 - d. A depth of greater than one and one half (1 1/2) inches shall be used as a guideline in determining if rutting or deflection is excessive, provided, however, the Village Engineer's judgment shall govern in any event in determining whether it has passed or failed the compaction test.

(c) **Granular Base Course**

- (1) All work under this subsection shall be carried out per the requirements of Section 304 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
- (2) Gradation Requirements:
 - a. If the aggregates shall consist of hard, durable particles of crushed stone or crushed gravel and shall conform to the following gradation requirements:

| Sieve Size | Percentage by Weight Passing | | | | | |
|------------|------------------------------|---------------|-----------------|---------------|-----------------|---------------|
| | Gradation No. 1 | | Gradation No. 2 | | Gradation No. 3 | |
| | Crushed Gravel | Crushed Stone | Crushed Gravel | Crushed Stone | Crushed Gravel | Crushed Stone |
| 1 1/2 inch | 100 | 100 | | | | |
| 1 inch | 75-100 | | 100 | 100 | 100 | 100 |
| 3/4 inch | | | | | 95-100 | 95-100 |
| 3/8 inch | 40-75 | 30-65 | 50-85 | 40-75 | 50-90 | 50-90 |
| No. 4 | 30-60 | 25-55 | 35-65 | 25-60 | 35-70 | 35-70 |
| No. 10 | 20-45 | 15-40 | 25-50 | 15-45 | 20-55 | 15-55 |
| No. 40 | 10-30 | | 10-30 | | 10-35 | |
| No. 200 | 3-10 | 2-12 | 3-10 | 3-12 | 8-15 | 5-15 |

- b. Aggregates for the top layer of base course shall be Gradation No. 2 and either Gradation No. 1 or Gradation No. 2 may be used in the lower layers.
- c. Aggregates used in the construction of the top 3 inches of unpaved or unstabilized shoulders abutting live traffic lanes shall conform to Gradation

No. 3 and other shoulder aggregate shall conform either to Gradation No. 2 or No. 2.

(3) Cross-Section.

- a. The granular base course shall be a minimum of ten (10) inches thick for a distance of sixteen (16) feet either side of the centerline.
- b. The granular base course shall be tapered from a thickness of ten (10) inches at sixteen (16) feet either side of the centerline to a zero thickness at distance of nineteen (19) feet either side of the centerline.
- c. The top of the base course shall have a finish crown of 0.25 feet.
- d. The road cross section shall be determined by the Village Engineer.

(4) Construction Methods and Compaction

- a. The granular base course shall be constructed in two lifts of five (5) inches each.
- b. The granular base course shall be compacted with a minimum of a ten (10) ton rubber tire roller to a degree as to pass the compaction test as outlined in Section 14-2-4(b)(5).
- c. When satisfactory compaction cannot be achieved due to lack of moisture water shall be added by sprinkling with equipment suitable for this purpose.

(d) **Drainage Ditches**

(1) Side Slope

- a. The road ditches shall have a side slope of at least four (4) feet for every foot of depth on the roadside of the ditch.
- b. The ditch side slope shall be at least three (3) feet for every foot of depth on the lot side of the ditch.

(2) Depth

The minimum depth of road ditches below the finished grade of the centerline shall be two point four (2.4) feet deep, except that at the high point of the ditch, the depth may be a minimum of eighteen (18) inches.

(3) Location

Ditches shall be a minimum of thirteen (13) feet from the edge of the roadway surface.

(4) Grade

- a. The minimum grade of ditch inverts in the direction of flow shall be 1.0%. Where the grade of a drainage ditch in a development or along a road is 1.0% or less, the developer shall install a paved invert, trench drain, or similar facility acceptable to the Village Engineer to insure proper drainage.
- b. Whenever the longitudinal centerline of the ditch shall exceed 2% in grade, there shall be a six (6) foot wide sod base every fifty (50) feet on the base of the drain. Whenever the longitudinal centerline of the ditch shall exceed 3% in grade, the ditch must be entirely sodded.

(5) Topsoil and Grading

- a. Topsoil shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life.

- b. The ditch slopes shall be dressed with a minimum of three (3) inches of topsoil and carefully graded to the lines and elevations given on the plans.
- (6) Seeding
- a. The seed bed shall be prepared by raking to remove lumps, stones, rocks and debris
 - b. The seed shall then be sowed during a time approved by the Village Engineer.
 - c. The seed shall be composed of seeds of the purity, germination and proportions, by weight, as given below in the Table of Seed Mixtures:

| Species | Seeds | | Mixtures | |
|--------------------------|---------------|--------------------|----------|---------|
| | Min. % Purity | Min. % Germination | No. 1 % | No. 2 % |
| Kentucky Bluegrass | 85 | 80 | 45 | 20 |
| Creeping Red-Fescue | 97 | 80 | 35 | 55 |
| Perennial Ryegrass | 95 | 90 | 5 | 10 |
| White Clover | 95 | 90 | 15 | |
| Empire Birdsfoot Trefoil | 95 | 80 | | 15 |

Seed Mixture No. 1 is intended for use on projects where average loam, heavy clay or moist soils predominate. Seed Mixture No. 1 shall be sown at a rate of one and one-half (1 ½) pounds per 1000 square feet.

Seed mixture No. 2 is intended for use on projects where light, dry, sandy or gravelly soils predominate. Seed Mixture No. 2 shall be sown at a rate of two (2) pounds per 1000 square feet.

- d. In areas where the soils are potentially highly erosive the Village Board may vary Section 14-2-4(d)(6)(c) and require a specially designed seed mixture and seeding rate as recommended in 630.2.1.5.1.2 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
- (7) Mulching
- a. All seeded areas must be mulched.
 - b. Mulching-material shall consist of any straw or hay in an air-dry condition or wood excelsior fiber, wood chips or other suitable material of a similar nature which is substantially free of noxious weed seeds and objectionable foreign matter.
 - c. Mulch shall be placed on a given area within three (3) days after the seeding has been completed.
 - d. The mulching material shall be uniformly spread over the seeded areas to a loose depth of no less than one (1) inch.

- e. Instead of mulch, the contractor may at his option substitute jute netting, excelsior mat or a material of a similar nature.
- f. In ditches which will be especially susceptible to erosion, the Village Engineer may order the use of excelsior-mat or jute netting over sodded or seeded areas.

(8) Sodding

- a. The sod shall consist of a dense, well-rooted growth of permanent and desirable grasses, indigenous to this area, and shall be practically free from weeds or undesirable grasses.
- b. At the time the sod is cut, the grass on the sod shall have a length of approximately two (2) inches.
- c. The areas to be sodded shall be free from stones, roots or other undesirable foreign material.
- d. The sod shall be staked or pegged with pieces of lath or stakes spaced from eighteen (18) inches to thirty-six (36) inches apart along the longitudinal axis of the sod strip.
- e. After staking and clean up, the sod shall be thoroughly moistened by sprinkling or watering, when rainfall is deficient for a period of ten (10) days.

(9) Fertilizer

- a. Fertilizer shall meet the following minimum requirements: Nitrogen, not less than 16%; phosphorus free unless soil test indicates phosphoric acid is necessary and then phosphoric acid, not greater than 3%; potash, not less than 6%.
- b. Fertilizer shall be applied at the rate of seven (7) pounds per 1,000 square feet of area for seeded or sodded areas.
- c. Fertilizer shall be incorporated into the soil by raking or discing.

(10) Hydroseeding

Hydroseeding may be used in lieu of regular seeding and mulching.

(e) **Culverts**

(1) Culvert pipe shall be one of the following materials:

- a. Culvert pipe under any roadway or intersection shall be reinforced concrete culvert pipe (RCCP), AASHTO designation; M170.
- b. Corrugated steel pipe and pipe arch for driveways which shall conform to the requirements of the specification for metallic coated corrugated iron or steel culverts and under drains, AASHTO Designation; M 36.
- c. Reinforced concrete pipe which shall conform to the requirements of the specification for reinforced concrete culvert, storm drain and sewer pipe, AASHTO Designation; M 170.
- d. Corrugated aluminum pipe which shall conform to the requirements of the specification for corrugated aluminum alloy culverts and under-drains, AASHTO Designation; M 196.
- e. Structural plate pipe and pipe arches which shall conform to requirements of the specification for structural plate for pipe, pipe arches, AASHTO Designation; M 167.

- (2) End Sections and End Treatment
 - a. Galvanized steel end sections shall be used at the ends of all steel and aluminum road culverts. Insulating gaskets shall be used between the steel end section and aluminum pipe. Reinforced concrete road culverts shall be used at the ends of reinforced concrete road.
 - b. In lieu of end sections the Village Engineer may allow for good cause, the ends of steel and aluminum pipe greater than forty-eight (48) inches in width, to be mitered provided it can be verified that such miter cut will not substantially weaken the pipe. The miter cut shall be smooth and free of all sharp and jagged edges.
 - c. In the cases of a large pipe or a high susceptibility of erosion to the embankment at the ends of the culverts, the Village Engineer may order the use of rip-rap, headwall or slope paving at the ends of the culvert.
- (3) Minimum Length and Minimum Size
 - a. Culverts shall be a minimum of forty (40) feet in length. The culvert length shall be increased as is necessary to provide a stable embankment slope of no steeper than two (2) (horizontal) to one (1) (vertical).
 - b. Culverts shall have a minimum diameter of twelve (12) inches.
- (4) Gage or Class of Pipe
 - a. The minimum gage of steel or aluminum pipe or minimum class of reinforced concrete pipe shall be that specified in the Fill Height Tables of Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual.
- (5) Minimum and Maximum Cover

The minimum and maximum cover for culverts shall be that specified in Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual.
- (6) Bedding

Culvert pipe shall be bedded per Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual and per Section 520.3.2.1 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
- (7) Backfill
 - a. Culvert pipe shall be backfilled per Section 520.3.4.1 and per Section 207.4 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
 - b. Material used for backfill shall be of a quality acceptable to the Village Engineer and shall be free from frozen lumps, wood or other extraneous or perishable materials.
 - c. If acceptable backfill material is not available the Village Engineer may require granular backfill conforming to Section 209 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.

(f) **Storm Sewers**

- (1) Storm sewers shall be constructed per the requirements as set forth in the Standard Specifications for Sewer and Water Construction in Wisconsin, 5th Edition, March 1, 1988 with Addendum No. 1 (January 2, 1992) and Addendum No. 2 (March 1, 1999).
- (2) Storm sewer pipe shall be one of the following materials:
 - a. Non-reinforced concrete pipe intended for use for storm sewers shall conform to the requirements of the Specification for Concrete Sewer, Storm Drain and Culvert Pipe, AASHTO Designation; M 86, for the class of pipe specified.
 - b. Reinforced concrete pipe which shall conform to the requirements of the specification for reinforced concrete culvert, storm drain and sewer pipe, AASHTO Designation; M 170, for the class of pipe specified.

(g) **Road Profile**

The minimum grade for the road surface shall be 0.5%. The grade of an intersection shall be no more than 2% for a minimum distance of fifty (50) feet from said intersection. The maximum grade for all other cases shall be 8%.

(h) **Sight Easements**

As a condition of acceptance of a road the dedicator shall agree that no one shall plant shrubs or trees or install fences of such construction as would obstruct vision in intersections within the imaginary triangle with legs 25 feet long, measured from the point of intersection of the road right-of-way lines and measured along the road right-of-way lines.

(i) **Sight Distance**

Minimum stopping sight distance shall be 150 feet.

(j) **Horizontal Curvature**

The minimum radius of curvature shall be 150 feet.

(k) **Cul-de-Sac**

- (1) The roadbed in a cul-de-sac shall be at least sixty-three (63) feet in radius with an unpaved portion in the center having a radius of thirty-four (34) feet or less. Those owners of land abutting a cul-de-sac shall be responsible for maintaining the center island, unless such responsibility has been delegated to a homeowner's or condominium association.
- (2) The paved portion of a cul-de-sac shall have an outside radius of fifty-eight (58) feet, whether curb and gutter or open ditch
- (3) Cul-de-sacs in residential developments shall have a maximum length of 800 feet or shall be designed to accommodate a maximum of sixty-four (64) residential units, whichever is more restrictive.

(l) **Temporary Tee**

- (1) In a tee, the roadbed shall be twenty-six (26) feet in width and at least one hundred (100) feet in length.
- (2) The wings of the tee shall be surfaced with the ten (10) inch granular course and not paved with bituminous concrete.

(m) **Bituminous Concrete Paving**

(1) All bituminous concrete paving work on new roads shall be done under contract by the Village with the contractor who is awarded the Village's paving contract for the year during which the paving work is done.

(2) Primer Coat

- a. The day before the bituminous concrete base course is to be placed upon a previously untreated foundation layer, such as the granular base course, a primer coat shall be applied.
- b. The material used as a prime coat shall be grade MC-30 liquid asphalt or equal material.
- c. The primer coat shall be applied at a rate of no less than 0.25 gallon per square yard.
- d. The primer application shall be equal to the width of the roadway.

(3) Tack Coat

- a. Before the installation of a bituminous surface course upon a previously prepared or existing surface, such as bituminous concrete or portland cement concrete, a tack coat shall be applied.
- b. The material used as a tack coat shall be grade MS-2 emulsified asphalt.
- c. The tack coat shall be applied at a rate of no less than 0.10 gallons per square yard.

(4) Bituminous Concrete

- a. The bituminous concrete binder course and surface course pavement shall conform to State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition, Section 407.
 1. All bottom course or binder aggregate shall conform to Wisconsin Highway Commission Bituminous Gradation No. 1. All surface or wearing courses aggregate shall conform to Wisconsin Highway Commission Bituminous Gradation No. 3.
 2. The aggregates for the binder and surface course shall have at least 95% of the aggregate particles which are retained on the No. 4 sieve produced by the fracture of larger particles.
 3. The asphalt cement shall conform to State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition and shall be in the 120-150 penetration range.
- b. The Village Board may, at its option, allow the use of up to 35% recycled asphalt pavement in the binder course and up to 25% recycled asphalt pavement in the surface course. If recycled asphalt pavement is used all mixes produced shall conform to the same current acceptable specifications required of all bituminous concrete mixtures.
- c. The specifications for transportation and placing the bituminous pavements shall conform to Section 405, State of Wisconsin Department of

Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition. The contractor, at its expense, shall submit samples of bituminous concrete pavement, which it has placed, to a certified materials testing laboratory approved by the Village Board for analysis if desired by the Village Engineer. All costs incurred in sampling, shipping, and testing pavement samples shall be borne by the contractor.

- d. After the primer coat has been applied and allowed to set to the satisfaction of the Village Engineer, new roads shall be surfaced with a four and one-half (4 ½) inch thick pad of bituminous concrete binder course. All road widths and travel lanes shall comply with the Street Standards under subsection 14-14-3-4(c)(5).
- e. When development along the road or in the subdivision is 95% completed, or at such other time as the Village Engineer may in his or her discretion determines to be appropriate, a tack coat and a one and one half (1 1/2) inch bituminous concrete surface course shall be applied.

(n) **Final Shouldering**

- (1) After the bituminous concrete binder course is installed, Village personnel and equipment will perform the final shouldering work at the cost of the Subdivider or developer.
- (2) The aggregate used for final shouldering shall conform to Subsection 14-2-4(c)(2)(c).
- (3) Unless an alternate final shouldering plan is approved by the Village Board, the crushed stone or gravel shoulder shall have a minimum width of five (5) feet.

(o) **Drainage**

- (1) All roads will provide drainage for land to conform with the dictates of the Village of Caledonia Comprehensive Drainage Plan except that the Village Board may require more stringent measures, if, in its opinion, the situation so requires. Any natural drainage way or existing drainage tile disturbed during the construction of a road shall be restored or shall be rerouted and redeveloped in a manner acceptable to the Village Engineer.

(p) **Backfill and Compaction of Utility Trenches**

All sanitary sewer, storm sewer and water main trenches, both mainline and laterals, that are excavated within the street right-of-way shall be backfilled and compacted as follows:

- (1) Except as provided in paragraph 5 of this subsection, excavated material conforming to Section 6.43.5 of the Standard Specifications for Sewer and Water Construction in Wisconsin, latest edition and any Addendums thereto, may be used, provided that the material is not frozen. Material shall be placed in lifts not to exceed two (2) feet in depth and compacted in place with a boom mounted hydraulic compactor.
- (2) Excavated material that is frozen or does not conform to the "Standard Specifications" shall be disposed of and a granular backfill material conforming to Section 6.43.4 of the "Standard Specifications" shall be placed in lifts not to exceed two (2) feet in depth and compacted in place with a boom mounted hydraulic compactor.

- (3) If a contractor wishes to vary the requirements of this section so as to employ an equal or more effective method of compaction, he shall first obtain the written permission of the Village Engineer. If such permission is granted and it later appears that the alternate method being employed is not, in the judgment of the Village Engineer, equally or more effective than the provisions of this section, the contractor shall revert to the means specified in this section.
 - (4) In no case will flooding of the trenches be allowed as a compaction method.
 - (5) In all cases, granular backfill material, conforming to Section 6.43.4 of the "Standard Specifications" shall be placed, in sanitary sewer trenches for a distance of twenty-five (25) feet either side of all sanitary sewer manholes. No excavated material will be allowed in this area.
- (q) **Developer's Liability, Costs and Bonding**
- (1) The developer requesting acceptance of the road or highway shall be liable for all costs relating to construction and approval of the road or highway, including but not limited to, materials, labor, engineering inspections, permit fees plan review, adjustment or relocation of utilities and drainageways, insurance, legal review and sureties.
 - (2) Bituminous Concrete Binder Course Liability
 - a. The developer shall be liable for the cost of the binder course pavement in an amount necessary to achieve an average of four and one half (4 1/2) inches of binder course for the width of the roadway and a diameter of one hundred and sixteen (116) feet in the cul-de-sacs, provided that if the approved road plans provide for a wider width roadway the developer shall be liable for such wider width.
 - b. The per ton price of the binder course material shall be the cost at the time of application.
 - c. Concurrent with the execution of the contract with the Village, the developer shall pay to the Village the estimated cost of installing the bituminous concrete binder course, along with a 10% contingency. In lieu of a cash payment, the developer may furnish a letter of credit, provided that such letter is acceptable to the Village. Interest that accumulates on any cash deposit remains the property of the Village.
 - (3) Final Shoulder Liability
 - a. The developer shall be liable for the cost of Village equipment, labor and material which is necessary for the final shouldering subsequent to the installation of the bituminous concrete binder course.
 - b. The developer shall be liable for the necessary final shouldering subsequent to the installation of the bituminous concrete surface course.
 - c. Concurrent with the execution of the agreement, as provided for within Subsection 14-2-4(t) with the Village, the developer shall pay to the Village the estimated cost of installing the final shoulder for the binder course, along with an additional 10% contingency. Interest that accumulates on any cash deposit remains the property of the Village. In lieu of a cash payment, the developer may furnish a letter of credit, provided that such letter is acceptable to the Village.

(4) Bituminous Concrete Surface Course Cost

- a. The developer's liability for the cost of the surface course pavement shall be that cost which is necessary to install one and one half (1 1/2) inch thickness of surface course pavement for the width of the roadway and a diameter of one hundred and sixteen (116) feet in the cul-de-sacs, provided that if the approved road plans provide for a wider width roadway the developer shall be liable for such wider width.
- b. The surface course cost shall be calculated by the Village Engineer using the following formula:
 1. The area in square feet of pavement shall be calculated by the use of analytical methods from approved road plans.
 2. The area of pavement shall be divided by the figure one hundred and four (104) to obtain the number of tons necessary.
 3. The tonnage shall be multiplied by the per ton paving contract price of surface course material which is in effect at the time of the execution of the road construction agreement, as required per subsection 14-2-4(t) herein. The answer shall be the amount due to the Village.
- c. The developer shall be liable for the cost of the tack coat which is used immediately prior to the surface course paving.
- d. Concurrent with the execution of the road construction agreement with the Village, the developer shall pay in cash to the Village the cost of the surface course installation as calculated above, along with a 10% contingency. Interest that accumulates on any cash deposit remains the property of the Village.

(5) Performance Bond

- a. The Village Board, as a condition precedent to the execution of the road construction agreement, as required pursuant to subsection 14-2-4(t) herein, shall require the developer to file cash, letter of credit or a performance bond with the Village guaranteeing compliance with the Village Ordinances and the provisions of such road construction agreement. Such security shall be in such amount as to cover 100% of the estimated costs of storm water drainage, lot grading, and road construction work, exclusive of the road construction costs for paving and final shouldering. Such estimated costs shall be provided by the developer or his engineer and shall be subject to the approval of the Village Board.
- b. From time to time, during the course of the above-described construction work, the Village may release at the request of the developer pro rata portions of the cash bond, surety bond or letter of credit. The amount of the principal sum released shall roughly equate to the percentage completion of the storm water drainage, lot grading, and road construction work, as determined by the Village Engineer, less a 10% retainage. The amount retained by the Village shall remain with the Village until all obligations under the road construction agreement have been fully performed, after which any portion not used by the Village as therein provided shall be paid to the developer.

(6) Costs of Review for Non Subdivision Roads

The petitioner who requests that the Village accept a road outside a subdivision shall pay to the Village all engineering, planning, legal and administrative expenses incurred by the Village in reviewing, approving, preparing, or drafting any road plans or contracts required by virtue of such plans or by the provisions of this section. Such expenses shall include the cost of engineers, attorneys, inspectors, subcontractors and other employees computed on a prorata hourly basis. This obligation shall not be affected by denial or withdrawal of the petition for acceptance. At the time of submission of preliminary plans, the petitioner shall deposit with the Village Treasurer the sum of One Thousand (\$1,000.00) Dollars, either in the form of cash or an irrevocable letter of credit acceptable to the Village Board. The Village shall apply such funds toward payment of the above costs. Upon final approval and acceptance of the road, the Village shall furnish the petitioner with a statement of all such costs incurred by it with respect to such road. Any excess funds or credit shall be remitted to petitioner or shall be released by the Village, and any costs in excess of such deposit shall be paid by the petitioner.

(7) Costs of Review for Subdivision Roads

The Subdivider shall pay all reasonable costs as provided in Section 14-3-3(c) of this ordinance.

(r) **Engineering Plans, Computations and Specifications**

(1) Final plans and specifications of roads and grades shall be approved by the Village Engineer before the execution of the road construction agreement or Development Agreement by the Village Board. Approval of the plans and specifications shall not bind the Village to acceptance of the completed construction nor relieve the person constructing the same from complying with the provisions of this section or any other ordinances, or of providing for conditions not represented on the plans in accord with the dictates of good engineering practices. The plans shall include:

- a. A plan view or views of the proposed road drawn to scale on a standard sheet thirty-six (36) inches by twenty-four (24) inches and showing thereon:
 1. A profile of the road centerline drawn on the same sheet or sheets at the same horizontal scale and arranged so that any station on the profile is represented, as nearly as practicable, directly above or below the same station on the plan view. The vertical scale shall be ten (10) times that of the horizontal scale. Such profile shall show the existing and proposed profile.
 2. The horizontal alignment of the road centerline showing station marks at each one-hundred (100) foot station.
 3. Cross sections at minimum stationing of one hundred (100) feet.
 4. Centerline curve data including radius of curvature, central angles of curves, tangent distances, stationing of points of intersection of tangents, points of curvature, points of reversed or compound curvature and points of tangency.
 5. Stationing of centerline intersections and beginning and end of construction.

6. The horizontal alignment of the edges of the proposed pavement including radii at intersections and the junction with existing construction.
 7. Location, size, length, material and direction of flow of culverts, subdrains and intercepting ditches and direction of flow of ditches, points where direction of flow changes, points of disposal of drainage and sufficient information on existing drainage facilities used for disposal to accurately depict the adequacy of the drainage system.
 8. Proposed ditch profile, high point of ditch, ditches requiring sodding, and ditches requiring sod checks.
 9. Elevations of road at intersections.
 10. Typical cross section of road showing right-of-way width, gravel road bed width, asphalt width, crown of road, and road ditches.
 11. Location and dimensions of street, right-of-way, and other easements provided for drainage and construction.
 12. Such other dimensions, notes or pictorial data as may be necessary to present a clear representation of the proposed construction.
 13. Location and elevation of benchmarks used as control.
 14. The name, address and seal of the engineers responsible for the design and the supervision of construction. Such engineers must be registered professional civil engineers.
 15. The size of driveway culvert for each lot. The relevant drainage area shall be that area lying upstream from each downstream lot line.
- b. A grading and drainage plan showing the following information:
1. Existing and proposed contour lines throughout the development. (If Racine County Topographic Maps are used to determine the location of existing contour lines, such contour lines shall be spot checked in the field by the developer's engineer.)
 2. Proposed lot corner elevations.
 3. Proposed drainage easement lines, lot lines and right-of-way lines.
 4. Flow arrows for the drainage paths of all ditches and swales.
 5. Proposed yard elevation shown within the block defined by the normal set back lines. The yard elevation shall be that elevation around the immediate perimeter of a future structure. The final yard elevation shall be set at the discretion of the Village Engineer.
 6. Cross sections of major off road drainage ditches at no greater than one hundred (100) feet intervals if such ditches have a 100 year design flow of at least thirty (30) cubic feet per second.
 7. Proposed top of pavement elevations along the centerline of road at even stations.
 8. Proposed flow line elevations of major off road drainage ditches at even stations.
- c. Written road construction and site grading specifications which reflect the requirements of Chapter 14-2.

- d. If a storm water detention or retention basin is deemed necessary by the Village Engineer and, if applicable, the appropriate Drainage Commission storm water detention and retention plans, which shall include:
 - 1. A plan view reflecting such information as is required on the grading plan.
 - 2. Subsurface drain tile if deemed necessary by the Village Engineer.
 - 3. Pertinent cross-sections which are necessary to describe the lines and grades of the holding pond profile and boundaries.
- (2) Storm water drainage computations shall be submitted to the Village Engineer for his approval.
 - a. The computations shall be accompanied by a drainage area plan showing all major drainage basin and sub-basins within the development and contributing areas outside of the development.
 - b. Rate of run off computations shall be made for the use of sizing road culverts, drainage structures, holding ponds and ditches. The rational method shall be used in all run off computations. In cases where a drainage area exceeds fifty (50) acres, a run off computation using the Soil Conservation Service method will also be required. Use of other methods of runoff computations will require written permission of the Village Engineer.
 - c. Road culverts shall be designed using the standard procedures and graphs shown in the Hydraulic Engineering Circulars published by the Federal Highway Administration.
 - d. Detention and retention basins shall be designed using the flood routing procedure conforming to the storage equation of $\bar{I}t - \Delta S = \bar{O}t$ (\bar{I} = inflow in cfs; S = storage in ft.³ ; O = outflow in cfs; t = time).
 - e. Drainage ditches and storm sewers shall be designed using the Manning equation and the methods outlined in the State of Wisconsin Department of Transportation Facilities Development Manual.
- (s) **Alternate Urban Road Cross Section**
 Should the standard rural road cross section, as detailed in the preceding sections of Chapter 14-2 contained herein, be impossible to construct pursuant to the ordinances set forth herein or should good cause be shown, the Village Board may allow the developer to utilize an urban road cross section. The alternate urban cross section shall be determined by the Village Board at the time of the preliminary plat approval.
- (t) **General Requirements**
 - (1) The owner shall agree in writing to be liable for the maintenance and repair of such road for a minimum period of two (2) years after acceptance of the base course of asphalt or until the Subdivision is at least 95% developed, whichever period of time is greater. The Village Board may require a longer guaranty period based upon the site conditions, time when construction is to be carried on, and any other factors affecting the road or its stability.
 - (2) No owner of any land abutting upon any road accepted by the Village Board under the terms of this Code of Ordinances shall offer for sale any of such lands so abutting unless such proposed road has been constructed according to the terms and provisions hereof.

- (3) No non-subdivision road shall be accepted by the Village of Caledonia unless the petitioner, at his own expense, furnishes the Village Board with a plat of such roadway and drainage easements, together with the deed granting title to such land to the Village or a document dedicating said land for highway purposes or granting an easement therefore to the Village. Such deed or document shall contain an accurate legal description of the realty affected, shall be executed in recordable form, and shall be certified by a registered land surveyor.
- (4) All such work shall be subject to the inspection of the Village Engineer, Village Road Inspectors and the Village Board or its designated agents, officers, or employees.
- (5) The provisions of this Chapter are intended as minimum standards. The Village Board may, if in its judgment the circumstances warrant set additional requirements or restrictions for construction and acceptance of any road.
- (6) No road or highway construction shall take place between November 15 and April 15 without written approval of the Village Board.
- (7) The naming of streets and Village roads and highways within the Village of Caledonia shall be subject to the discretion of the Village Board and the Racine County Planning and Development Division.

(u) **Road Construction Agreement**

Prior to the acceptance by the Village Board of engineering plans and specifications as provided for in subsection 14-2-4(r) the developer shall enter into a Road Construction Agreement with the Village.

- (1) Such Road Construction Agreement shall guarantee that the roads, highways and appurtenances thereto shall be constructed at the expense of sub-divider in accordance with the provisions of Title 14 Section 2 of the Code of Ordinances of the Village of Caledonia which are in effect at the time of such construction.
- (2) Sewer and/or water service laterals to each lot will be installed by the developer prior to submission of the roads to the Village for acceptance, provided sewer and/or water mains are available for connection in said roads.
- (3) In the case of subdivision roads, such road construction agreement as required herein may be substituted with the subdivision control agreement as provided for in Subsection 14-2-4(e).

(v) **References**

The references contained within this subsection shall be consulted for detailed information not given in Section 14-2-4. In the event that one of the following references is updated, revised or replaced the developer shall comply with the latest edition.

Subsection
2, 3, 4, 5, 13, 14

Reference
State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, 1996 Edition, as amended by Supplemental Specifications, 2000 Edition

| | |
|----------|--|
| 4, 5, 18 | State of Wisconsin Department of Transportation Facilities Development Manual |
| 6, 16 | <u>Standard Specifications for Sewer and Water Construction in Wisconsin</u> , 5 th Edition, March 1, 1988 with Addendum No. 1 (January 2, 1992) and Addendum No. 2 (March 1, 1999) |
| 18 | Urban Hydrology for Small Watersheds Technical Release No. 55 Soil Conservation Service, 1975 Edition |

SEC. 14-2-5 PRIVATE DRIVEWAYS.

(a) **Permit Required: Conditions Relating Thereto**

No person shall make an installation or relocation of a private driveway extending into a Village public right-of-way without first obtaining a highway access permit therefor from the Village Clerk. The Village Clerk shall issue such permit upon recommendation by the Village Engineer and, if applicable, payment to the Village Treasurer of the required fee.

(b) **Building Permit: Condition Precedent to Issuance**

No building permit shall be issued by the Building Inspector of the Village of Caledonia unless a driveway has been constructed from the public right-of-way to and on the site upon which construction is to take place, unless temporarily waived in writing by the Village Engineer, due to seasonal weather conditions.

(c) **Highway Access Permit: Terms and Conditions**

(1) Driveways which access Village roads which are constructed with road ditches.

- a. A culvert shall be installed under each driveway unless the Village Board or the Village Engineer shall have determined that no culvert is required to ensure drainage at that location. The culvert shall be of corrugated metal and shall be installed parallel to the highway and at a location designated by the Village Engineer. Such culvert shall have standard metal endwalls properly secured to the ends of the culvert. The size and elevation of the culvert shall be such as are established by the Village Engineer, but not less than twelve (12) inches in diameter. The culvert shall conform to Section 521 and shall be installed pursuant to Section 520 of the State of Wisconsin D.O.T. Standard Specifications for Road and Bridge Construction. There shall be a minimum of six (6) inches of gravel or crushed stone above the culvert as a traffic bearing surface. Prior to and subsequent to the installation of such culvert, the site, culvert and elevation of the same shall be inspected by duly authorized personnel of the Village of Caledonia. Installation shall be at the cost of the applicant.
- b. When installing a driveway, the property owner or permittee shall not pave any portion of the right-of-way with portland concrete cement, except if the driveway abuts a road right-of-way that has both curb and gutter.
- c. No one shall construct a solid wall abutment at the ends of the culvert underlying the driveway.
- d. Any drainage ditch and public right-of-way affected by the construction of a driveway entrance shall be reconstructed to a shape, grade and contour

necessary for proper drainage, as approved by the Village Engineer, at the expense of the property owner or permittee.

- (2) Driveways which access Village roads which are constructed with curb and gutter.
- a. No culvert shall be required unless it is determined by the Village Board or Village Engineer that a culvert is necessary to ensure proper drainage.
 - b. In the case of vertical face curb and gutter where the curb has not been constructed to allow driveway access, the applicant shall completely remove the existing curb and gutter and reconstruct such curb and gutter to allow for driveway access. Such removal and reconstruction shall extend for a minimum width of 30 inches and for a minimum length of 4.25 feet beyond the edge of the proposed driveway. Curb and gutter removal and construction shall be completed pursuant to Sections 204 and 601, of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition. All newly constructed curb and gutter sections shall be constructed to such dimensions as determined by the Village Engineer.
 - c. The applicant shall also be responsible for constructing concrete driveway approach slabs if such slabs are required by the Village Board. Such slabs shall be constructed to such dimensions as determined by the Village Engineer.

(d) **Culvert Maintenance**

The Owner of the contiguous property serviced by the driveway shall be responsible for the maintenance and repairs of any driveway culvert in the Village right-of-way, including the removal of yard debris and natural silt accumulation, so that there is no obstruction to the flow of water. In the event an owner shall fail to do so, the Village of Caledonia shall give written notice to the owner specifying the maintenance and repair required to be done. If after ten (10) days the owner fails to make such corrections, the Village of Caledonia may cause such work to be done, and shall charge the owner with such costs, and if unpaid, charged against the property as a special charge under Section 66.0627, Wisconsin Statutes. If the damage to a culvert necessitating the repairs under this section can be shown to have been caused by Village machinery or personnel, the cost shall be borne by the Village. If the Village determines that a culvert needs to be replaced, the Owner of the contiguous property serviced by the driveway culvert shall pay one-half (1/2) of the cost of replacement of the culvert and the Village shall pay for one-half of the cost. The property owner shall be billed for its portion of the cost. The billing and collection of such costs shall occur in accordance with Sections 3-5-1(c) through (f) of the Village of Code of Ordinances. If the cost is not paid in accordance with Village ordinance, the cost shall be charged against the property as a special charge under Section 66.0627, Wis. Stats., as provided in Sections 3-5-1(d) and (e). The Village Board shall adopt a resolution specifying a schedule of costs of replacement based on the size of the culvert pipe from time-to-time. Such resolution shall be kept on file at the Village. All work to be accomplished for the replacement shall be done by the Village, through its own employees or by contracts let to third parties. Such replacement costs shall not be charged to the homeowner if the replacement is necessitated by a Village stormwater drainage project

except in the case of a stormwater drainage project where a special assessment determination shall control the imposition of any costs.

(e) **Highway Access Permit Fee**

To cover the costs of administration, checking of grades, inspection and policing of this section, the applicant for a highway access permit hereunder shall pay to the Village Treasurer a permit fee of an amount as established by and as may be modified from time to time by resolution of the Village Board of the Village of Caledonia. In the case of Village roads constructed with curb and gutter, no permit fee shall be charged.

(f) **Asphalt Permit**

No person shall pave any portion of any driveway located on Village road right-of-way with bituminous concrete without first obtaining an "Asphalt Permit" from the Village Engineer. No person hereunder shall be issued a permit unless the applicant therefore pays to the Village Treasurer a permit fee of an amount as established by and as may be modified from time to time by resolution of the Village Board of the Village of Caledonia.

(g) **Driveway Maintenance Costs**

The cost of any and all repairs to the driveways extending into Village public rights-of-way, including but not limited to the moving of existing culverts and the maintaining of pavement and stone surfaces shall be borne by the property owner or permittee, unless such repairs were necessitated by a re-ditching and/or culvert resetting project of the Village or by a road resurfacing project of the Village.

(h) **Penalty**

Any person found guilty of violating any of the provisions of this Section, after having been directed to comply by the Village Board or its designee, shall upon conviction thereof forfeit not less than \$50.00 and the costs of prosecution and in default of payment thereof, shall be imprisoned in the County Jail for a period not to exceed thirty (30) days.

SEC. 14-2-6 EXCAVATIONS IN PUBLIC RIGHTS-OF-WAY AND VILLAGE OWNED PROPERTY REGULATED

(a) **Purpose and Findings.**

(1) In the exercise of governmental functions, the Village has priority over all other uses of the public Rights-of-Way. The Village desires to anticipate and minimize the number of obstructions and Excavations taking place therein and to regulate the placement of Facilities in the Rights-of-Way to ensure that the Rights-of-Way remain available for public services and safe for public use. The taxpayers of the Village bear the financial burden for the upkeep of the Rights-of-Way and a primary cause for the early and excessive deterioration of its Rights-of-Way is the frequent Excavation by Persons and Public Utilities who locate Facilities therein.

(2) The Village finds increased use of the public Rights-of-Way and increased costs to the taxpayers of the Village and that these costs are likely to continue into the foreseeable future.

(3) The Village finds that occupancy and Excavation of its property and Rights-of-Way causes costs to be borne by the Village and its taxpayers including, but not limited to:

- a. Administrative costs associated with public Right-of-Way projects such as registration, permitting, inspection and supervision, supplies and materials.
 - b. Management costs associated with ongoing management activities necessitated by public users.
 - c. Repair or Restoration costs to the public property and/or Right-of-Way associated with the actual Excavation.
 - d. Degradation costs defined as depreciation caused to the public property and/or Rights-of-Way in terms of decreased useful life, directly and/or indirectly arising or resulting from such Excavations and related activities thereon.
- (4) The Village enacts this ordinance to regulate the temporary Excavation, obstruction and/or occupancy of public property and/or the public Rights-of-Way. This ordinance imposes reasonable regulations on the placement and maintenance of equipment currently within its public property and/or Rights-of-Way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.
- (5) This ordinance provides the Village with a legal, uniform and reasonable framework within which to regulate, manage, inspect, properly maintain, engineer and regulate Excavations, Repairs, Restorations and related effects and aftereffects of and into the Village's public properties and Rights-of-Way, and to provide for recovery of the reasonable associated costs, fees and expenses incurred by the Village in doing so.
- (6) This ordinance protects the health, safety and welfare of the residents of the Village as they use public properties and the Rights-of-Way of the Village, as well as to ensure the structural integrity of public property and the public Rights-of-Way.

(b) **Definitions.**

The following definitions shall apply in this Section. Defined terms remain defined terms whether or not capitalized. Words used in the present tense shall include the past and future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word “shall” is mandatory and the word “may” is permissive.

Applicant. Any Person or Public Utility requesting permission to Excavate, cut into, bore into, obstruct and/or occupy public property and/or a public Right-of-Way.

Village. The Village of Caledonia, a Wisconsin municipal corporation located in the County of Racine, Wisconsin.

Degradation. The decrease in the useful life of the public property and/or improved or paved portion of a Right-of-Way, excluding the sidewalk right-of-way, caused by an Excavation of the public property or Right-of-Way, resulting in the need to reconstruct such property and/or Right-of-Way earlier than would be required if the Excavation did not occur.

Department. The Engineering Department of the Village.

Emergency. A condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

Village Engineer. The Village Engineer and/or his/her designee(s).

Excavate and/or Excavation. To dig, cut, bore into, remove, physically disturb, penetrate and/or in any manner affect the existing condition of any Village property, Right-of-Way or other land included in this ordinance.

Facilities. All equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

In. When used in conjunction with "public property" and/or "Right-of-Way", shall mean upon, over, above, within, on or under such public property and/or Right-of- Way.

Local Representative. A local person or persons, or designee of such persons or persons, authorized by an Applicant to accept service and to make decisions for that Applicant regarding all matters within the scope of this Section.

Obstruct. To place any object in a Right-of-Way so as to hinder free and open passage over that or any part of the Right-of-Way.

Permittee. Any person or Public Utility to whom a permit to occupy, Excavate or obstruct public property and/or Right(s)-of-Way has been granted by the Village under this Section of the ordinances

Person. A corporation, company, association, firm, partnership, limited liability company, limited liability partnership, joint venture, association, organization and individuals and their lessors, transferees, receivers, heirs, personal representatives, agents and all others acting on their behalf.

Property. The surface and space above and below an improved or unimproved part or whole of any and all Village owned or leased real property including, but not limited to, parks, vacant lots, open spaces, developed lands, green belts, parking lots, streets, sidewalks, terraces, rights-of-way, curbs, gutters, alleys, bicycle ways, bike trails, paths, beaches, river banks, easements, drainage ways, and other lands.

Public Utility. The meaning provided in Wis. Stats. 196.01(5), as from time to time amended or renumbered.

Repair. To perform construction work necessary to make the public property and/or Right-of-Way useable for appropriate and safe use and, if a Right-of-Way, in accord with the written and/or verbal requirements, specifications, rules and regulations of the Village and/or as promulgated from time-to-time by the Village Engineer; and/or, as applicable, to restore equipment to an operable and appropriate condition.

Restore or Restoration. That process by which an excavated public property and/or Right-of-Way and surrounding area, including pavement and foundation, is reconstructed in accord with the written and/or verbal requirements, specifications, rules and regulations of the Village and/or as promulgated from time-to-time by the Village Engineer.

Right-of-Way. The surface and space above and below an improved or unimproved public roadway, highway, street, bicycle lane and public sidewalk in which the Village has an interest, including other dedicated Rights-of-Way for travel purposes.

Site. The specific geographic location for a proposed Excavation accurately diagrammed and exactly described with particularity by the applicant in an application.

(c) **Prohibition -- Excavation permit required.**

- (1) No cut, Excavation, or service connection shall be made by any Person or Public Utility in any Village property or Right-of-Way unless a permit under this Section is applied for, the fee paid for, the permit issued by the Village Engineer, obtained and held under this ordinance and then only in strict accord with all provisions and requirements of this ordinance.
- (2) No Person or Public Utility shall undertake to perform the work of making any connection with, installing or Repair of any Facilities, gas pipe, water pipe, sewer, communication, cable, or electric line or facility laid or constructed in any street or public ground, or to Repair or remove any such item without having obtained a permit under this Section authorizing him to do such work. No annual permit fee is required but individual permits and permit fees for each Excavation are required.
- (3) Every cut, Excavation and service connection in any Village property that is not a Right-of-Way shall also require, in addition to the permit, payment of fees and fulfillment of other requirements set forth in this ordinance, and separate permission, lease(s) and/or easement(s) from the Village Board, as applicable. Such additional permission is discretionary with the Village Board, is not a matter of right regardless of whether a permit has been applied for and/or issued under this ordinance, and may be denied or withheld without cause. Compliance with this ordinance does not take the place of such additional required permission.

(d) **Application for permit.**

Written application for an Excavation permit shall be made to the Village Engineer prior to any Excavation. Permit applications shall contain and will be considered complete only upon compliance with each of the following requirements:

- (1) **Application Form.** An accurate and complete written Excavation Permit Application Form shall be submitted to the Village Engineer. The application shall be signed and dated by a duly authorized representative of the Applicant. The application form shall be in such form, content and requirements as the Village Engineer may determine and/or direct from time-to-time. The application form shall contain, at a minimum, the following information:
- (a) Each Applicant’s name, Diggers Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
 - (b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a Local Representative. The Local Representative or designee shall be available at all times. Current information regarding how to contact the Local Representative in an emergency shall be provided at the time of application.
 - (c) A detailed description of the scope and plan of the Excavation work and Repair/Restoration proposed, including a description of the property and name of the Right-of-Way if applicable, the approximate location of the Excavation(s), the purpose for the Excavation, and the method by which the Excavation is to made.
 - (d) Indemnification language protecting and holding harmless the Village and each and every of the Village’s elected and appointed officials, officers, employees, agents, contractors and representatives from and against any and all injury, payments, penalties and damages arising from any and all intentional and negligent activities of the Applicant and the Applicant’s appointed officials, officers, employees, agents, contractors and representatives.
 - (e) The applications shall be signed by the Applicant’s authorized representative or agent. If the work is not to be performed by the Applicant directly, the person engaged to do the work shall co-sign the application and the permit shall be issued in the name of the person performing the work along with the Applicant.
- (2) **Form and Drawings.** Submission of the completed permit application form as established by the Village Engineer, including all required attachments, drawings showing the location and area of the proposed Facilities, and the size of the cut, Excavation or service connection. The proposed Excavation must accommodate all existing underground Facilities within the proposed route.
- (3) **Insurance Certificate.** The applicant shall file Certificates of Insurance with the Village Engineer giving evidence of liability insurance in the following minimum amounts:

| | |
|---------------------------------|---|
| Worker’s Compensation | Statutory Limits |
| Commercial Automobile Liability | \$2,000,000.00 per Accident for Bodily Injury and Property Damage Liability Combined. |

| | |
|------------------------------|---|
| Commercial General Liability | \$2,000,000.00 per Occurrence for Bodily Injury and Property Damage Liability Combined. |
|------------------------------|---|

The Village Engineer may require higher amounts of liability insurance depending on the scope of the Excavation project. The Village and its officials, employees and agents shall be named as additional insureds on the commercial general and automobile liability policies. The insurance shall cover liability to third parties for the acts of the Applicant and Applicants officials and employees, agents, contractors, representatives and related others. The insurance shall cover bodily injury and property damage for the individual incidents and aggregates required by the Village Engineer. Such insurance shall not be cancelled or reduced without the insurer giving at least 10 days prior written notice to the Village Engineer. Cancellation or reduction of insurance shall automatically suspend the permit, and no further work shall be done under such permit until a new certificate of insurance complying herewith is filed with the Village Engineer. The Certificate of Insurance shall remain in full force and effect for not less than one year from the date of the Village's final inspection after completion of the project. The insurance requirements under this subsection may be modified or waived by the Village Engineer when the applicant is a Public Utility and the Village Engineer has no reasonable grounds to question the financial responsibility or compliance ability of the Public Utility.

- (4) **Bond.** A bond in the form of cash, performance bond issued by a licensed company in Wisconsin or irrevocable letter of credit issued by a financial institution acceptable to the Village shall be deposited or filed with the Village Engineer and preserved by the Village Treasurer prior to the issuance of the permit. The Village Engineer shall determine the minimum amount of a cash bond and the form and the minimum dollar amount of the performance security bond and letter of credit based upon the estimated cost of the project and to Restore the area involved to a condition the same or similar to that prior to the cut and/or Excavation. The bond or letter of credit shall be payable to the Village upon demand by the Village Engineer for any actual or suspected violation of any provision of this ordinance. The Village Engineer shall be able to demand payment upon the bond or letter of credit in whole or in-part at any time and from time-to-time. The bond or letter of credit shall be in such further form, content and requirements as the Village Engineer and Village Attorney may determine necessary and/or desirable to effect the intent of the Village Board in this ordinance. Except as provided in subsection 14-2-6(m)(9), the Village need not resort to any other remedy or provide any prior notice to the applicant or permittee before making demand upon, resorting to or receiving payment from the bond or letter of credit. In the event the cash bond, performance bond or letter of credit shall be insufficient for such purposes, the Permittee shall be liable to the Village for the excess cost over the amount of the bond or the amount collected by the Village on the irrevocable letter of credit. The bond or letter of credit shall remain in full force and effect for one (1) year from the date of the Village's final inspection after completion of the project. The bond requirements under this subsection may be modified or waived by the Village Engineer when the applicant is a Public Utility and the Village Engineer has no reasonable grounds to question the financial responsibility or compliance ability of the Public Utility.

- (5) **Certificate of Authority.** A copy of the applicant's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency,

where the Applicant is lawfully required to have such certificate from said commission or other state or federal agency.

- (6) **Corporate or Similar Certificate.** If the registration is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified by the Wisconsin Department of Financial Institutions.
- (7) **Site Plan.** Each application shall contain, attached thereto, an accurate diagram and description of the Excavation site.
- (8) **Payment.** Payment of the permit fees and costs as set forth in this ordinance.
- (9) **Notice of Change.** The Applicant shall keep all of the information listed above current at all times by providing to the Village Engineer information as to changes within three (3) working days following the date on which the applicant has knowledge of any change.
- (10) **One Permit Per Site.** A separate permit must be applied for and held, and a separate fee paid, for each site, Excavation, cut and/or project. A separate permit is required for a new or emergency Excavation at a previously permitted site if the previous work or Excavation was completed.
- (11) **Permits Not Transferable.** Permits are not transferable to a different Person or Public Utility. Permits are not transferable from place to place.
- (12) **Permit Posting Required.** A photocopy of each issued Village Excavation Permit shall be conspicuously posted and maintained at the site until the project is completed.

(e) **Fees.**

- (1) Each Applicant shall pay a base application fee of \$35.00 to the Village. In addition, the following additional fees, as applicable, shall be calculated by the Village Engineer and paid to the Village by the Applicant at the time the written application is filed with the Village Engineering Department:

| Proposed work in the Right-of-Way | Fee |
|--|------------------------------|
| Fiber Optic (Basic) | \$100.00 |
| Bore Right-of-Law | \$25.00 per bore |
| Bore Sidewalks and Driveways | \$5.00 per bore |
| Standard Per 50' For Larger Jobs (overhead) | \$5.00 per 50' |
| Standard Per 50' For Larger Jobs (underground) | \$10.00 per 50' |
| Pole Installation | \$5.00 per pole |
| Cabinet and Pedestal | \$25.00 per cabinet/pedestal |

- (2) **Fees non-refundable.** Permit fees are not refundable for any reason. The permit fees shall be in addition to any forfeiture provided elsewhere in this ordinance.

(f) **Costs Arising From Permittee Exceeding Specifications.**

- (1) **Reimbursement Required.** A Permittee exceeding the scope of the project reported in the written application shall fully and forthwith reimburse the Village for all additional Village costs incurred in addition to the fees otherwise applicable and/or paid for the entire project as established. Such additional costs shall include, but not be limited to, actual salaries and staff time, benefits, overhead, vehicle and equipment costs, copies, inspections and other similar costs as specified under Wis. Adm. Code Sec. 130.05.
- (2) **Substantial Projects.** For applications that provide for a substantial undertaking of Excavation within a public Right-of-Way attended by disruption of the general public and traffic, the Village Engineer may assess the actual costs of the Village employees' time engaged in review and inspection of the anticipated plans and work, multiplied by a factor determined by the Village Engineer to represent the Village's actual costs and expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0, plus the costs of mileage, vehicle rental/use attributed to the work, plus all consultant fees associated with the work at the invoiced amount plus ten percent (10%) for administration.

(g) **Exemptions.**

- (1) The Village and its public works contractors shall not pay fees or post a bond for Excavations pertaining to general governmental functions and projects, but shall apply for and hold a permit under this ordinance, and shall comply with all other provisions of this ordinance.
- (2) Plumbers who have applied for, paid the fee for, have been issued and hold a Village Excavation Permit for a particular site under Title 15 of the Village's Code of Ordinances.

(h) **Revocations, Suspensions, Refusals to Issue or Extend Permit.**

- (1) The Village Engineer may refuse to issue a permit or may administratively revoke, suspend or refuse to extend an existing permit if the Village Engineer finds any of the following grounds:
 - (a) The Applicant, Permittee or occupant has failed to obtain a permit, failed to pay the full required fee(s) for, and/or has not fully complied with any provision or requirement of this ordinance;
 - (b) Issuance of a permit for the requested date would interfere with an exhibition, celebration, festival or other event;
 - (c) Issuance of a permit would not be in the public's best interest;
 - (d) Issuance of the permit would be contrary to the health, welfare, safety or good order of the public, community or Village;
 - (e) There is a limitation of space as determined by the Village Engineer;
 - (f) Misrepresentation of any fact by the Applicant, Permittee or occupant, or anyone on their behalf;

- (g) Failure of the Applicant, Permittee or occupant to obtain, maintain or show proof of required bonds and/or insurance;
 - (h) Failure of the Applicant, Permittee or occupant to complete work in a timely or appropriate manner on any current or past Excavation project in the Village;
 - (i) Any current or past violation, breach or non-conformity with any provision of this ordinance by the Applicant, Permittee or occupant;
 - (j) The competing demands for the particular space in the Right-of-Way or other public property.
 - (k) The availability of other locations in the Right-of-Way or in other public property for the Facilities of the Permittee or Applicant;
 - (l) The applicability of ordinances or other regulations of the Right-of-Way or other public property that affect location of Facilities in the Right-of-Way; and
 - (m) The Excavation is proposed for a street, sidewalk, bike way, alley or other Right-of-Way or portion thereof newly installed, or recently resurfaced or reconstructed, and the Applicant chose not to Excavate and/or Repair/replace the utility before such new installation, resurfacing or reconstruction activities were completed. No excavation shall be allowed in newly installed or recently repaired or resurfaced public property and/or Rights-of-Way for five (5) years from completion of such new installation or recent repair or resurfacing. The Village Engineer may make exceptions to this rule for extraordinary circumstances and emergencies.
- (2) **Discretionary Issuance.** The Village Engineer may waive a particular requirement and issue a permit where issuance is necessary: (a) to prevent substantial economic hardship to a customer of the Permittee or Applicant, or (b) to allow such customer to materially improve its utility service, or (c) to allow the Permittee or Applicant to comply with state or federal law or Village ordinance or an order of a court or administrative agency.

(i) **Reporting Obligations.**

It is in the best interests of all affected parties to attempt to coordinate construction in public property and/or the public Right-of-Way whenever it is reasonably possible. Therefore, periodic reporting by the Public Utility or the Applicant to the Village Engineer of known or projected construction plans shall occur and will be useful to achieve this objective.

(j) **Location of Facilities Underground.**

The permittee shall endeavor to install Facilities underground or within buildings or other structures in conformity with applicable codes and requirements of the Village Engineer, unless in conflict with state or federal law, existing above-ground Facilities are used, or otherwise approved by the Village Engineer. The Village Engineer may direct that the installation be made underground if the public health, safety, or welfare so require.

(k) **Limitation of Space.**

The Village Engineer may prohibit or limit the placement of new or additional Facilities within public property and/or public Rights-of-Way if, in his determination, there is insufficient space to accommodate all of the requests of Persons or a Public Utility to occupy the site, public property and/or Right-of-Way. In making such decisions, the Village Engineer shall strive to the extent reasonably possible to accommodate all existing and potential users of the public property Right-of-Way, but may prohibit or limit the placement of new or additional Facilities when s/he determines such is required to protect, safeguard and/or facilitate the public health, safety, or welfare. In reaching this conclusion, the Village Engineer may consider the Public Utility's or Person's obligation to serve.

(l) **Attachment to bridges.**

Whenever an Applicant requests permission to attach pipes, conduits, cables, or wires to any village bridge structure, the Applicant shall pay all costs associated with the granting of such permission, including, but not limited to, administrative expenses in the analysis and inspection of such installation and Applicant's plans. The owner of such pipes, conduits, cables, or wires shall be entitled to no compensation for removal or relocation of the same in case of repair, removal, or replacement of said bridge structure by the Village or others on the Village's behalf, and/or any consequential damages directly and/or indirectly arising therefrom.

(m) **Standards; Construction, Repair and/or Restoration of paved or improved areas.**

All Excavations shall comply with the following:

- (1) **Surrounding Area; Precautions; Notices.** All paving and excavated materials shall be removed with the least possible damage to the surrounding area, and shall be placed where it will cause the least inconvenience to the public and where the same will not interfere with drainage or traffic. All Excavations shall be enclosed with sufficient barricades, and flashers shall be maintained upon said location during the hours of darkness. The Permittee shall provide and maintain proper barricades, signs, flags and flagmen at its expense. The Village may order the placement or use of additional safety devices and the Permittee shall pay all costs associated with their placement. All other necessary precautions to guard the public against accidents shall be taken by the permittee. If necessary to protect the health, safety and public welfare, in addition to repairing its own work, the Permittee shall repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the Village. Permittee shall provide notice to all public and private individuals, firms and corporations affected by the work and Digger's Hotline at least three (3) working days before such work is to start. Permittee shall notify the Village Engineer prior to the commencement of work and again at various stages of the work in the timeframes as specified by the Village Engineer.

- (2) **Style of Cut.** All Excavations in permanently improved Right-of-Way, streets and/or parking lots, sidewalks, bike trails, and the like, shall be made by final saw cuts around the perimeter of the Excavation in accordance with the specifications established by the Village Engineer.
- (3) **Boring; Backfilling.** Wherever feasible, boring under rather than excavating the paved portion of the Right-of-Way, shall be the method used in the case of paved, hard surface, highways. If boring is not feasible, the paved portion of Village Rights-of-Way not listed below may be open cut provided granular backfill material conforming to Section 6.43.4 of the Standard Specifications for Sewer and Water Construction in Wisconsin, latest edition, with any Addendums thereto, shall be used to backfill the trench. Backfill material shall be placed in lifts not to exceed two (2) feet in depth and compacted in place with a boom mounted hydraulic compactor. If boring is not feasible, the paved portion of the below listed roads may be Excavated, provided the trench is backfilled with aggregate slurry backfill material conforming to Section 6.43.8 of the “Standard Specifications” cited above:

7 Mile Road, 6 Mile Road, 5 Mile Road, 4 1/2 Mile Road, 4 Mile Road, 3 Mile Road, Dunkelow Road, Nicholson Road, Green Bay Road, Middle Road, Charles Street, and Erie Street.

If an Applicant wishes to vary the requirements of this subsection so as to employ an equal or more effective method of compaction, the Applicant shall first obtain the written permission of the Village Engineer. If such permission is received and it later appears that the alternate method being employed is not, in the judgment of the Village Engineer, equally or more effective than the provisions of this subsection, the contractor shall revert to the means specified in this subsection.

- (4) **Trench Flooding Prohibited.** In no case will flooding of the trenches be allowed as a compaction method.
- (5) **Pavement Restoration.** After filling of the trench is completed to the satisfaction of the Village Engineer, the Permittee shall Restore the pavement of the highway so as to conform to the surrounding pavement as soon as such repavement is practical and feasible. Unless otherwise required by the Village Engineer, disturbed pavement shall be replaced by the Permittee, or an authorized contractor retained by the Village, at the Permittee's sole cost and expense. The Permittee shall use only materials approved by the Village Engineer. The site shall be fully and timely restored by the Permittee to a condition better than it was immediately prior to the Excavation and in full accord with each and every specification of the Village as from time-to-time supplemented, amended or otherwise modified. However, when a Permittee is a Public Utility, the Right-of-Way shall be restored to at least its original condition.
- (6) **Restoration of Unpaved Areas.** All Excavations in areas which are not paved shall be backfilled with natural material compacted in 12" layers with mechanical compaction equipment. The surface shall be restored to its original condition, subject to the approval of the Village Engineer. The Permittee shall guarantee this work for twenty-four (24) months from the date of Village final inspection after project completion.

- (7) **Maintenance.** The Permittee shall be responsible for all costs associated with maintaining the temporary and permanent Repairs and Restorations in accordance with Village Engineer specifications until the Repairs/Restorations are accepted by the Village. Upon acceptance, the guarantee provisions under subsection (n) below are applicable. In all cases, the permittee shall be required to Repair the site to Village specifications and standards subject to inspection and acceptance by the Village.
- (8) **Inspections and Acceptance.** At the beginning and at the end of the project, the Permittee shall immediately notify the Village Engineer. The Village Engineer shall inspect the area of the work and accept the work at the end when the Village Engineer determines that proper Repair and/or Restoration has been made in accord with all specifications and requirements of the Village. The Permittee shall make the work site available to the Village Engineer and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- (9) **Failure to Repair/Restore.** In the event that the Village Engineer determines that the initial or any subsequent Repair and/or Restoration work or work area have not been timely or otherwise not Repaired or Restored as required or directed, then the Village Engineer shall inform or notify the Permittee who shall then forthwith perform and/or re-do the required work solely at Permittee's cost and expense. Permittee shall then notify the Village Engineer of the remedial work completion. The Village Engineer shall then reinspect the work. If the Permittee fails to restore the worksite to its specified condition within fourteen (14) days of being notified to do so, the Village Engineer shall have the right to do any and all necessary restoration work. The Permittee shall be liable for the actual cost thereof plus twenty-five percent (25%) of such cost for overhead and administrative expenses, including but not limited to those expenses identified under Adm. Code. Sec. 130.05. The costs of said work shall be deducted from the cash deposit, drawn on the bond or letter of credit or billed directly to the Permittee. Should the costs of repairs exceed the cash deposit, bond or letter of credit posted, the additional amount shall be billed. Any billed costs shall be paid within thirty (30) days of the billing date. No future Excavation permits shall be issued to the Applicant until such invoices are paid in full. At any time after the fourteen (14) day notice and opportunity to cure as specified above, the Village Engineer may demand and/or draw upon the Permittee's bond to cause the work to be performed adequately. In addition to all of these steps and remedies, and in addition to and not in lieu of any enforcement, forfeitures, penalties, injunctive and/or other relief, the Village Engineer may use Village crews and/or contract with third parties to perform and/or complete the Repairs and/or Restoration, and charge/invoice the Permittee for the costs and expenses of such work. The Permittee shall forthwith pay in full such invoice to the Village within thirty (30) days of the billing date.
- (n) **Guarantee.** The Permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During this period it shall, upon notification from the Village Engineer, immediately correct, repair, restore and/or re-do any and all work and portions thereof to the extent required or directed by the Village Engineer, using the

method and within the time required by the Village Engineer. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Village, not including days during which work cannot be done because of circumstances constituting force majeure. If the repair and/or replacement pavement or material settles or cracks within five (5) years of the date of the permit and if failure of the repair and/or replacement is due to improper backfill, compaction or materials, the pavement and backfill in the Excavation area shall be forthwith removed and replaced at the expense of the Permittee.

(o) **Relocation of Facilities.**

An occupant must promptly and at its own expense permanently remove and relocate its Facilities in the public property or Right-of-Way whenever the Village and/or Village Engineer, jointly or severally acting in his/her or its governmental capacity, and having determined that the public health, safety, or welfare so requires, requests such removal and relocation. Notwithstanding the forgoing, an occupant shall not be required to remove or relocate its Facilities from any Right-of-Way or other public property that has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the occupant therefor.

(p) **Interference With Other Facilities During Municipal Construction.** When the Village performs work in the Right-of-Way or other public property and the Village Engineer finds it necessary to maintain, support, shore, or move an occupant's Facilities, the Village Engineer shall notify the Local Representative. The occupant shall meet with the Village's representative within twenty-four (24) hours and coordinate the protection, maintenance, supporting, and/or shoring of the occupant's Facilities. The occupant shall accomplish the needed work within seventy-two (72) hours, unless the Village agrees to a longer period. In the event that the occupant does not proceed to maintain, support, shore, or move its Facilities within such time, the Village may arrange to do the work and bill the occupant, said bill to be paid within thirty (30) days of the billing date.

(q) **Abandoned and Unused Facilities.**

(1) **Discontinued Operations.** An occupant or Permittee who has decided to discontinue its operations must either:

- (a) Timely provide information satisfactory to the Village Engineer that the occupant's or Permittee's obligations under this ordinances for its Facilities have been lawfully assumed by another occupant or Permittee; or
- (b) Submit to the Village Engineer a proposal and instruments for transferring ownership of its Facilities to the Village. If an occupant proceeds under this clause, the Village may, at its option:
 - 1. Accept the dedication for all or a portion of the Facilities; or
 - 2. Require the occupant, at its own expense, to remove the Facilities; or
 - 3. Require the occupant to forthwith post a bond or provide payment in an amount determined by the Village Engineer sufficient to reimburse the Village for reasonably anticipated costs to be incurred in removing the Facilities.

(2) **Abandoned Facilities.** Facilities that remain unused for two (2) years shall be deemed abandoned. Any occupant or Permittee having abandoned equipment in any public property and/or Right-of-Way shall remove it within two years, unless the Village Engineer waives this requirement. Abandoned Facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Village may, at its option, abate the nuisance, take possession of the Facilities, or require the removal of the Facilities by the occupant or the occupant's successor in interest, or exercise any of its other rights under this ordinance. A determination by the Village Engineer that a facility is abandoned shall be conclusive, final and binding on the occupant and/or Permittee.

(r) **Emergency situations.**

Each occupant, Permittee and/or their agent shall immediately notify the Village Engineer by verbal notice on an emergency phone number provided by the Village Engineer of any event regarding its Facilities that it considers to be an emergency. The occupant, Permittee and/or their agent may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the occupant, Permittee and agent shall apply for the necessary permits, pay the fees associated therewith, and otherwise fully comply with the requirements of this ordinance.

(s) **Compliance with Village Engineer Directions.**

An Applicant, Permittee and occupant shall forthwith comply with each and every verbal and written direction and requirement of the Village Engineer.

(t) **Compliance with Other Laws.**

Obtaining a permit to Excavate and/or occupy the Right-of-Way or other Village property does not relieve Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other Village, County, State, or Federal rules, laws or regulations. A Permittee shall comply with all requirements of local, state and federal laws. A Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the Right-of-Way pursuant to its permit, regardless of who does the work.

(u) **Vicarious Liability.**

Each Applicant, Permittee and occupant is vicariously responsible and liable under this ordinance for the actions of the respective Applicant's, Permittee's and occupant's employees, contractors and agents, and is liable for violations by them, jointly and severally.

(v) **No Repeal of Tree Requirements.**

Nothing herein shall be construed to repeal or amend the provisions of a Village ordinance requiring persons to plant or maintain a tree lawn in the area of the Right-of-Way between their property and the street curb or pavement, construct sidewalks or driveways or other similar activities. Persons performing such activities shall not be required to obtain any permits under this ordinance.

(w) **Raising or lower street grade or surface prohibited.**

No Person or Public Utility, unless duly authorized in writing by the Village Engineer or by formal action of the Village board, shall raise or lower the surface of any street above or below the established grade, or remove any earth or soil from any street, or interfere with the surface or soil of any street in any manner whatsoever.

(x) **Double Fees.**

- (1) Any Person or Public Utility who commences any activities for which a permit is required under this ordinance without first having applied for, paid the fee for and/or holding the required permit shall still be required to apply for, pay the fees for and hold the requisite permit before continuing any Excavation or other activities upon the site.
- (2) Such Person or Public Utility shall also be required to pay double the fees otherwise applicable.

(y) **Appeal of Decisions.**

Any Applicant, Permittee, occupant or other person aggrieved by a decision of the Village Engineer under this ordinance may file a written appeal with the Village Engineer requesting review before the Village Plan Commission. An appeal shall be filed within ten (10) days of the decision or direction. The Plan Commission shall commence a hearing within sixty (60) days of the filing of the appeal. The determination of the Plan Commission shall be subject to review and approval by the Village Board. Section 4-1-9 et. seq. of the Village's Code of Ordinances shall govern the hearing process. Chapter 68, Wisconsin Statutes, shall not apply to this administrative appeal process. The appeal shall be signed and dated by a person authorized to appeal or to act on behalf of such person. The appeal form shall require such other information as the Village Engineer may from time-to-time require.

(z) **Severability.**

If any subsection, sentence, clause, phrase or portion of this Section is held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(aa) **Violations -- Penalty -- Injunctive and Other Relief.**

- (1) Any person, employee, officer or principal of any Person or Public Utility who violates, causes or permits to be violated any provision of this ordinance, requirement or specification of the Village or Village Engineer, upon conviction thereof, shall pay a forfeiture to the Village of not less than One Hundred Dollars (\$100.00) nor more than Ten Thousand Dollars (\$10,000.00), together with the costs of prosecution and in default of payment thereof, shall be imprisoned in the Racine County Jail for not less than five (5) days nor more than ninety (90) days, or dealt with as otherwise provided by law.
- (2) It shall be the ongoing responsibility of the offender to timely abate the violation(s) as quickly as possible.
- (3) Each and every violation constitutes a separate punishable offense.
- (4) Each and every day that a violation continues constitutes a separate punishable offense.
- (5) The Village, in addition to the above penalties, may institute and seek injunctive relief through circuit court and/or may commence, maintain and prosecute one or more related or additional actions to achieve compliance and/or enjoin, abate or remove the violation(s); and the Village Board may also revoke or suspend any permit issued hereunder. The Village Engineer may deny the issuance of a permit to an Applicant who has been convicted of a previous violation of this ordinance, or who has violated, or is violating any provision of this ordinance as determined in the sole discretion of the Village Engineer.
- (6) If a permit were issued, such issuance shall not constitute a defense for the offender, not shall any error, oversight, previous non-enforcement of a similar or separate violation, or dereliction of duty on the part of any Village official, board or body constitute any defense.

SEC. 14-2-7 DISRUPTION OF DRAINAGE.

- (a) It shall be unlawful for any person, firm, corporation, or public utility to fill or obstruct any ditch alongside a Village road, any drainage easement, or any creek, stream, river or canal, with any dirt, debris or construction, without prior written approval of the Village Engineer.
- (b) It shall be unlawful for any person, firm, corporation or public utility to landscape, cultivate, plow or remove soil from their property in such manner as to obstruct or fill any ditch, drainage easement, creek, stream, river or canal, without prior written approval of the Village Engineer.
- (c) Any person, firm, corporation or public utility who fills or obstructs or causes to be filled or obstructed any ditch, drainage easement, creek, stream, river or canal in violation of (1) or (2) above shall on written order from the Village Engineer, correct such violation and restore the affected, ditch, drainage easement, creek, stream, river or canal at his own expense. If corrective and restorative action is not commenced within ten (10) days after receipt of such written order, or completed within such reasonable time as the Village Engineer shall specify in writing, the Village may proceed with such work as is necessary

for said correction and restoration and may charge the costs of the work to the violator, to be collected through legal action or the levying of a special tax or assessment.

(d) Failure to comply with the provisions of this section shall constitute a public nuisance.

Any person, firm, corporation or public utility violating the terms of this section shall be guilty of a violation and upon adjudication to that effect, shall be subject to a forfeiture of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and in default of payment of such forfeiture, shall be subjected to imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days.