

## CHAPTER 8

### STREETS, SIDEWALKS AND GUTTERS

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# **STREETS, SIDEWALKS, GUTTERS AND ADDRESSES**

## **8.01 INTENT AND PURPOSE.**

**This Chapter is intended to regulate and control the establishment and use of streets, sidewalks and gutters, and the addressing of buildings and structures within the corporate limits of the City of Middleton in order to promote the public health, safety and general welfare of the citizens of the City of Middleton.**

## **8.02 STREET AND SIDEWALK GRADES.**

**(1) Establishment of Grade. The grade of all streets (including curb and gutter, if present), alleys and sidewalks shall be established by the City Engineer, with approval by the Public Works Committee, and the same recorded by the City Clerk in his or her office.**

**(2) Alteration of Grade Prohibited. No person may alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City by any means whatsoever unless authorized or instructed to do so by the Public Works Committee or the City Engineer. All alterations of grade shall be kept on file in the office of the City Clerk.**

## **8.03 SIDEWALK CONSTRUCTION AND REPAIR.**

**(1) Owner to Construct. At locations along or upon any street, alley or highway in the City where the Common Council has directed that sidewalk will be constructed, it shall be the duty of the abutting property owner to build, repair, construct and perpetually maintain sidewalks and to pay the entire cost therefor unless specifically exempted by written City policy approved by the Common Council. Whenever the Common Council shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the City, it shall proceed according to Wis. Stat. s. 66.0907.**

**(2) Qualification Required. No person, firm or corporation may lay, remove, replace or repair any public sidewalk within the City unless such work is done by a person, firm or corporation whose qualifications to perform such work have been approved by the City Engineer.**

**(3) Permit Required. No person may remove, construct or maintain any sidewalk within the public right of way without first obtaining a street opening permit from the City Engineer.**

**(4) Specifications.** All public sidewalks in the City shall conform to the specifications set forth in the City of Middleton “Standard Specifications and Construction Contract Documents” which shall be approved by the Public Works Committee and kept on file in the office of the City Engineer.

**(5) Width and Thickness.** Sidewalks adjacent to residential properties shall be four (4) feet in width unless a greater width is required by the City Engineer to match an existing adjacent sidewalk, and not less than five (5) inches thick. Sidewalks adjacent to commercial or industrial establishments shall be not less than five (5) feet in width and five (5) inches in thickness except within driveway approaches where the minimum thickness shall be seven (7) inches.

#### **8.04 DRIVEWAYS.**

**(1) Permit Required.** No person may construct or maintain any driveway within the public right of way or across any public sidewalk or curbing without first obtaining a street opening permit from the City Engineer.

#### **(2) Specifications.**

**(a) Driveway Connection.** Driveway surfaces shall connect with the street pavement and match the grade of the adjacent street or curb and gutter. Construction of driveways and all elements incidental to that construction shall be performed in accordance with the City of Middleton “Standard Specifications and Construction Contract Documents” as approved by the Public Works Committee and kept on file in the office of the City Engineer.

**(b) Interference with Intersections Prohibited.** No driveway may be constructed to provide ingress or egress directly to or from a street intersection or within 25 feet of a street intersection unless specifically approved by the Common Council.

**(c) Interference with Street.** No driveway may be constructed to provide ingress or egress at any location on a public street where in the opinion of the City Engineer or the Public Works Committee construction of such driveway would interfere with effective traffic control or proper placement of highway signs or signals. No driveway apron may extend into the street beyond the face of the curb or into the gutter area. All driveway entrances and approaches shall be constructed so that they shall not interfere with the drainage of streets, side ditches or roadside areas or with any existing structure on the right of way. When required by the City Engineer to provide for adequate surface water drainage along the street, the property owner shall provide and maintain any necessary culvert pipe at owner’s expense.

**(d) Owner Liable for Damage or Injury.** The owner of the premises shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances to the premises.

#### **8.05 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS.**

**(1) Permit Required.** No person, firm or corporation may make or cause to be made any excavation or opening in or under any street, alley, highway, sidewalk or other public way within the City without first obtaining a permit therefor from the City Engineer.

**(2) Application for Permit.** The application for permit as required in the preceding subsection shall state the purpose for which the permit is desired and the location of the proposed excavation, and shall contain an agreement that the applicant will pay all damages to persons or property, public or private, caused by the applicant, his or her agents, employees or servants in the performance of the work for which the permit is granted. At the discretion of the City Engineer, the applicant may be required, as a condition of the issuance of a permit, to post a bond to ensure during construction that the site is properly maintained with respect to safety, erosion control, traffic control and other applicable requirements; to ensure proper restoration upon completion of the project; and to save the City harmless from any and all damages, costs, and charges that may accrue from the applicant's use of such street, sidewalk, or alley for the excavation.

**(3) No Further Privileges Granted.** No permit for an excavation granted under the provisions of this section shall be deemed to convey or grant any privilege to occupy the space within or below any street or sidewalk, or any utility, vault, pipe, drain or any other thing whatsoever.

**(4) Specifications and Conditions.** All excavations and subsequent restorations in the City shall conform to the specifications set forth in the City of Middleton “Standard Specifications and Construction Contract Documents” as approved by the Public Works Committee and kept on file in the office of the City Engineer. Excavations made under the provisions of this section shall not be left open longer than necessary to perform the work. Whenever it is necessary to disturb or remove a portion of sidewalk for the purpose of making any excavation authorized under this section, the limits of removal shall extend to the nearest construction joint such that only entire squares of sidewalk are removed and replaced. It is the intent of this subsection to prohibit the patching of a square in a sidewalk.

**(5) Notice to Chief of Police.** Before any excavation, opening or blockage in any street or sidewalk is made by any person, firm or corporation under the provisions of this section, forty-eight (48) hours advance notice shall be given by the person intending to make such excavation, opening or blockage to the Chief of Police.

**(6) City Work Excluded.** Except as specified in sections 8.05(4) and (5) the provisions of this section shall not apply to excavation work under the direction of the City Engineer by City employees or contractors performing work under contract with the City necessitating openings or excavations in City streets.

## **8.06 OBSTRUCTIONS AND ENCROACHMENTS.**

**(1) Obstructions and Encroachments Prohibited.** Other than as permitted under Section 7.09, Middleton General Ordinances, no person may encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he or she is the owner or occupant, except as provided in subsection (2) hereof. Specifically, no person may discharge upon any street, alley or sidewalk, or permit to be discharged thereon, any mud, sand, gravel or other material. Sidewalk shall be kept clear for the use of persons on foot, as provided in Wis. Stat. s. 66.0907(1).

**(2) Exceptions.** The prohibition of subsection 8.06(1) shall not apply to the following:

(a) Signs or clocks attached to buildings which project not more than six (6) feet from the face of such building and which do not extend below any point ten (10) feet above the sidewalk, or fourteen (14) feet above the street or alley.

(b) Awnings which do not extend below any point seven (7) feet above the sidewalk.

(c) Public utility encroachments duly authorized by state law or the Common Council.

(d) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than three (3) feet on the sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two (2) hours.

(e) Excavations and openings permitted under s. 8.05 of this Code.

**(3) Removal By City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any unlawfully obstructed street or sidewalk shall refuse or neglect to remove such obstruction within twenty-four (24) hours after notice from the City Engineer to do so, it shall be the duty of the City Engineer to remove such obstruction and make return of the cost and expense thereof to the City Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed street or sidewalk, and such sum shall be levied and collected as other special taxes against the real estate.

#### **8.07 SNOW AND ICE REMOVAL.**

**(1) Responsibility of Owner, Occupant, Etc.** The owner, occupant or person in charge of each building, structure or unoccupied lot in the City fronting or abutting a street shall remove snow and ice from the sidewalk, including handicap ramps adjacent to such building, structure or unoccupied lot as well as from any fire hydrant upon or directly adjacent to the property to a point no higher than four (4) inches below the lowest outlet hydrant cap. The snow and/or ice must be removed from the entire width of the sidewalk and handicap ramps and from fire hydrants. No accumulation of snow or ice may be permitted to remain for longer than 24 hours regardless of the source of the snow or ice. Notwithstanding this requirement, no obligation to remove snow or ice shall commence until the snowfall or precipitation event has ceased unless the snowfall or precipitation event lasts, continuously or intermittently, for a period of greater than 24 hours in which case snow and ice shall be removed as completely as possible at least once every 24 hours. If ice cannot be removed immediately, it shall be sprinkled with salt, sand or combination thereof until it can be removed.”

**(2) Obstruction of Streets by Depositing Snow or Ice Prohibited.** No person may deposit snow or ice upon the sidewalk, roadway or street, or cause or order the same to be done.”

#### **8.08 STREET USE PERMITS.**

**(1) Regulation by the City.** All municipal streets are intended for the use by the general public, subject to reasonable regulations. However, under appropriate circumstances, the City Engineer may grant a permit for street use for particular events, provided the function is not conducive to being held in another location and provided that the health, safety, and general welfare of the public can be protected and maintained.

**(2) Application for Street Use Permit.** A written application by a person, or a group of persons for a Street Use Permit shall be made on a form provided by the City Engineer and shall be filed with the Public Works Department thirty (30) days prior to the event proposed for the Street Use Permit. The application shall set forth the following information regarding the proposed street use:

(a) The name, address and telephone number of the applicant and responsible party;

(b) Name of organization, if applicable, sponsoring the use;

(c) The date and hours of the proposed use;

(d) A detailed description of the location of the proposed use;

(e) A detailed description of the proposed use;

(f) The approximate number of persons expected to attend the event for which the permit is requested.

**(3) Liability Insurance.** To hold a valid permit, the applicant must have in force adequate liability insurance. To be deemed adequate, liability insurance must provide policy limits as determined and set by the Finance Committee; hold the City and its employees and agents harmless; and indemnify and defend the City, its employees and agents against all claims, liability loss damage, or expense incurred by the City as a result of or caused by damage from the activities for which the permit is granted. Applicant shall furnish to the City, a minimum of seven (7) days before the start of the event, a Certificate of Insurance evidencing the existence of comprehensive general liability insurance including contractual liability insurance with the City of Middleton named as an additional insured. The Certificate of Insurance shall provide thirty (30) days written notice to the City prior to cancellation, non-renewal or material change in the policy.

**(4) Review by Chief of Police, Fire Chief and City Engineer.** Any application for a Street Use Permit shall be reviewed by the Chief of Police, the Fire Chief and by the City Engineer or their designees to assess the effect that the temporary closing of the street may have on the public safety or on traffic movement in the area during the time the street is to be closed. In the event of an appeal, the Chief of Police, Fire Chief and the City Engineer will forward their recommendations to the Common Council for its consideration.

**(5) Mandatory Denial of Street Use Permit.** An application for a Street Use Permit shall be denied under any of the following circumstances:

- (a) The proposed street use is primarily for private or commercial gain;
- (b) The proposed street use would violate any federal or state law or any ordinance of the City;
- (c) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property;
- (d) The application for a Street Use Permit does not contain the information required above;
- (e) The application requests a period for the use of the street in excess of six (6) hours; or
- (f) The proposed use could equally be held in a public park or other location.

**(6) Appeal to the Common Council.** An applicant denied a permit may appeal for a review of the decision to the Common Council within ten (10) days after such denial.

**(7) Permit Fee and Deposit.** Each application for a Street Use Permit shall be accompanied by a fee of \$15.00.

**(8) Consent for Issuance of Street Use Permit.** In addition to the fee required by the previous subsection, each application for a Street Use Permit, except for parades or races sponsored by civic or youth organizations which have been in existence for at least six (6) months, shall be accompanied by a Consent for the Issuance of a Street Use Permit which shall be signed by at least one adult owner, occupant or authorized representative from each of not less than seventy five percent (75%) of the lots and lands abutting that portion of the street described in the application. The consent shall be substantially in the following form:

**CONSENT FOR ISSUANCE OF STREET USE PERMIT**

We, the undersigned owners, occupants or authorized representatives of lots and lands abutting on \_\_\_\_\_ Street in the City of Middleton, hereby consent to the issuance of a Street Use Permit between the hours of \_\_\_\_\_ and \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and do hereby agree to abide by such conditions as the Common Council may require in the event said Street Use Permit is granted. We further understand that the permit will not be granted for longer than six (6) hours on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the permitted event.

**(9) Clean Up Requirements.** The holder of any permit issued under this section shall return the street to the condition that existed prior to the use within twelve (12) hours after the permit expires. The City will make such restoration in the event that the permit holder fails to do so and shall bill the permit holder for the cost incurred by the City in performing the work. Failure to make payment within a reasonable time after receipt of the bill shall constitute an additional ground for refusal to grant the permit holder a like permit in the future.

**(10) Suspension of Permit.** If during the permitted Use of Street, the Chief of Police, Fire Chief or City Engineer or their designee(s) determines that said use threatens the health, welfare or safety of the public, they shall have the authority, jointly or severally, immediately to terminate or suspend the permit.

**8.09 EMERGENCY POWERS.** Wis. Stat. s. 166.23 is hereby adopted by reference.

**8.10 ADDRESS NUMBERS.**

**(1) Display of Address Numbers.**

(a) The City Engineer shall assign at least one address number to any lot or parcel, or part of a lot or parcel, upon which a building or structure is located. It shall be the duty of each owner thereof to display the assigned address number in a conspicuous place and in accordance with the specifications described in this section.

(b) All displayed address numbers for structures or buildings or units within buildings shall consist of numerals (numeric characters). Each numeral of the address number shall not be less than two and one half inches in height and shall be of proportionate width, spacing and font weight. For large commercial and industrial buildings, the City Engineer may require numerals to be up to eight (8) inches in height with proportionate width, spacing and font weight.

(c) Each displayed address number shall be affixed to the front of the building or structure in such location, and have sufficient contrasting color to the background upon which it is mounted, so that it may be seen readily from the abutting street.

(d) For buildings with any entrance fronting an alley or similar access drive, the address number also shall be displayed in such location, and have sufficient contrasting color to the background upon which it is mounted, that it may be seen readily from the alley or access drive.

(e) For any building or structure with a displayed address number that cannot be seen readily from a street or alley, the address number also shall be displayed at the intersection of the access drive with the street or alley.

(f) For any multiple tenant building that has a single address number, the unit number for each individual occupancy unit in the building shall be displayed on or near the main entrance door to the unit.

(g) For any multiple tenant building that has multiple address numbers, the respective address number for each tenant space shall be displayed upon the exterior of the building at the entrance to the tenant's unit.

(h) For any building on which additional address signage is required for public safety, the City Engineer, at his discretion, may require such additional address signage to be displayed.

(i) Only whole numbers shall be permitted for use as address numbers.

(j) Exceptions.

1. Alley apartments that are attached or adjacent to and on the same lot as the principal building may be numbered with a standard address number followed by the letter "A", where the numeric portion of the address shall match the address of the principal building, e.g. "4321A".

2. In buildings with multiple tenants, units on a floor lower than the ground-level floor may be numbered with a prefix "B", followed by the numeric portion of the unit number, to indicate "basement" level.

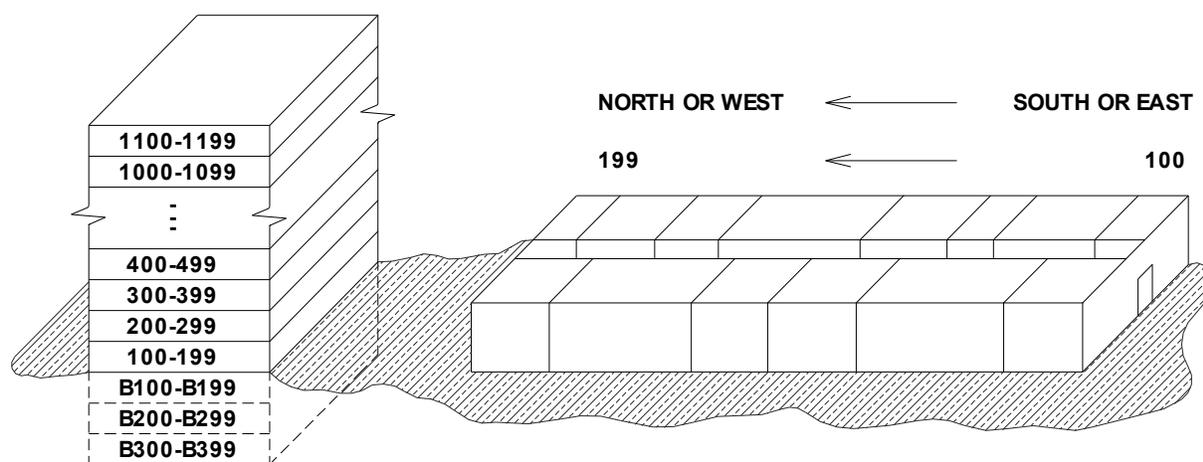
**(2) Change of Address Numbers.** Whenever the City Engineer determines that an address number for a building, or unit within a building, is confusing for any reason and that it is in the public interest that the address or unit number be changed, the City Engineer shall renumber the lot or parcel or the affected part of the lot or parcel or the affected unit within a building and inform the City Clerk of the change. The City Clerk shall thereupon make such change to the appropriate municipal records and notify the owner by registered mail of the new address or unit number. Within fifteen (15) days of the mailing of such notification, the owner shall display the new address or unit number on the respective building or structure, if existing, as required in Section 8.10(1).

**(3) Buildings with Multiple Tenants.**

(a) The owner of any building with multiple tenants shall establish, with approval of the City Engineer, one of the following methods of labeling individual units within the building. A combination of these methods is prohibited.

1. Single Address Number for the entire building with one unit number for each separately occupied unit therein; or
2. Multiple Address Numbers, one for each separately occupied unit within a building.

**Figure 8.10 Unit Numbering for Single Address Buildings with Multiple Tenants**



(b) In multiple story buildings, the story upon which any unit is located, as measured up or down from ground level, shall be indicated in the hundreds portion of the unit number, as illustrated in Figure 8.10.

(c) For any building in which some units front or face a street other than the street originally designated for the address of the building, the City Engineer may require the addresses of some or all units in the building to be assigned to the other street. In such case, a single building could contain some units with addresses on one street and other units with addresses on a different street. Units on one street could use a different method of addressing, as described in 8.10(3)(a) than the units on the other. Such a configuration for addressing shall be limited to circumstances in which, in the opinion of the City Engineer, a single street addressing configuration would result in confusion so as to pose significant risk to public health, safety and welfare.

**(4) Directory for Multiple Tenant Commercial Buildings.**

(a) The owner of any multiple tenant, commercial building that has a single address number shall display and maintain a current directory of tenants. The directory shall be located at the main, common entrance, or if none exists, outside the building in a readily seen location as approved by the City Engineer. The directory shall be updated within fifteen (15) days of occupancy by a tenant or change of tenant. The directory shall include:

1. Tenant name;
2. Unit number occupied by tenant.

(b) The unit number shall be displayed on all entrance doors to the tenant's space.

(c) Exception. The City Engineer, at his discretion, may reduce or waive the requirement to provide a directory in cases where such information is deemed not to be critical. Examples include mini-warehouses, and single story, multiple tenant commercial buildings in which all the units face the street.

**(5) Noncompliance.** If the owner of any building or structure neglects to display and maintain thereon the assigned address number or unit number, the City Engineer shall serve a notice requiring the owner to display the assigned address number or unit number as required by Section 8.10(1). If the owner neglects to do so for fifteen (15) days after service of the notice, the owner shall be subject to enforcement as provided herein.

**8.11 STREET IDENTIFICATION.**

**(1) Street Names Required.**

(a) Public and private streets shall be named. A proposed street that does not intersect or is not contiguous with an existing street shall not be given a name already assigned to an existing street within the Greater Madison Metropolitan Area or surrounding fire district jurisdictions. The use of an existing name, but with a different prefix or suffix, shall not be deemed to be a sufficient distinction to constitute compliance with this section.

(b) The City Engineer reserves the right to disallow a proposed name for a street for any reason where the name has significant potential to result in confusion as to the street's identity, such as when an existing street within the Middleton Fire District has a similar sounding name.

(c) A proposed street that intersects or is in alignment and contiguous with an existing street may use the name of the existing street. Such proposed street shall use a prefix (North, South, etc.) or suffix (Avenue, Street, Court, Place, etc.) different from that of the existing street of the same name if, in the opinion of the City Engineer, it is appropriate to do so to distinguish the proposed street from the existing.

(d) Allowable prefixes shall be limited to "North", "East", "South", and "West".

(e) Allowable suffixes shall be limited to those on file with the City Engineer. The City Engineer may, at his discretion, allow additional suffixes to be added to the list of allowable suffixes provided that the new suffixes comply with U.S. Postal standards. The words "North", "East", "South", and "West" shall not be used as a suffix.

(f) Suffixes shall not be used as the root name of a street. This includes all suffixes on file with the City Engineer and those listed in the U.S. Postal Service publication entitled "Postal Addressing Standards".

**(2) Street Name Signs.** Public and private streets shall be identified and labeled with street name signs at all street intersections. Street signs shall be mounted on poles in accordance with the City of Middleton Standard Specifications and Construction Contract Documents. The sign plates shall comply with the current version of the Federal Manual on Uniform Traffic Control Devices (MUTCD), published by the Federal Highway Administration. The City shall be responsible for the work to install and maintain public and private street name signs and poles. The initial cost for installation shall be paid by the developer of the street unless another funding source is approved by the Common Council. The cost for replacement and perpetual maintenance of street signs and poles shall be paid by the City.

**(3) Location of Signs.** All public and private street signs shall be located adjacent to the pavement edge or back of curb so as to provide adequate clearance from the traveled way in accordance with accepted engineering standards and so as to be readily visible from the intersecting streets. All sign locations are subject to the approval of the City Engineer who may require a sign location plan to be submitted for review prior to granting such approval.

## **8.12 ENFORCEMENT.**

**(1) Penalty.** The penalty for violation of any provision of this ordinance shall be as prescribed by Section 30.04 of the City of Middleton Municipal Code.

**(2) Enforcement by Injunction.** Compliance with the provisions of this Ordinance may also be enforced by injunctive order at the suit of the City of Middleton. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

## **8.13 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing covenants, deed restrictions, agreements, rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

## **8.14 INTERPRETATION.**

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

## **8.15 SEVERABILITY OF ORDINANCE PROVISIONS.**

If any section, provisions or portion of this Ordinance is adjudged unconstitutional or invalid by a court, the remainder of this Ordinance shall not be affected thereby.

## **8.16 EFFECTIVE DATE.**

This Ordinance shall become effective upon its adoption by the City and publication.