

ORDINANCE NO.: 5026

AN ORDINANCE to amend Section 40-105(c)(2)(d) & (e), Section 40-106(7)(e), Section 40-107(1), 40-107(1)(a), 40-107(1)(g), 40-107-(i) & (j) and various portions of Section 40-108 of the Code of Ordinances of the City of La Crosse pertaining to street privilege permits for water irrigation systems.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Section 40-105(c)(2)(d) & (e) are hereby amended to read as follows:

- d. Construction barricades placed on public ways by the ~~Director of Public Works Engineering Department~~, the State of Wisconsin, the water or sewer utility, or utility company;
- e. Excavations or other construction performed on the public way by the ~~Director of Public Works Engineering Department~~, water utility and sanitary sewer utility, the State of Wisconsin, public utility or their contractors;

SECTION II: Section 40-106(7)(e) is hereby amended to read as follows:

- e. Applicant shall make arrangements with the public utility companies and the City to clear all public underground utilities prior to initiating work, and if necessary, applicant will make arrangements with the ~~Department of Public Works Engineering Department~~ to ensure proper traffic control.

SECTION III: Section 40-107(1), 40-107(1)(a), 40-107(1)(g), and (j) are hereby amended to read as follows:

- (1) *Block parties and other recreational uses.* The ~~Director of Public Works City Engineer~~ may order the short term permit to temporary closing of a public way for the purpose of authorizing a street closure, block party, or other event to be held thereon.
 - a. Before ordering any temporary street closing, the ~~Director of Public Works City Engineer~~ shall consult with the Police and Fire Departments and Traffic Engineer. The ~~Director of Public Works City Engineer~~ may decline to order the temporary street closing for good cause, including, but not limited to, his determination that the street closing would cause or tend to cause unreasonable traffic congestion, result in a disturbance of the peace, or endanger the public health, safety or welfare.

* * *
 - g. No fire, tent or any structure is permitted in the public right-of-way which in the judgment of the ~~Director of Public Works City Engineer~~ could cause damage to any City property or structure.

* * *
 - j. The ~~Director of Public Works City Engineer~~ may require additional provisions or instructions at his discretion.

SECTION IV: Section 40-108(1) is hereby amended to read as follows:

- (1) *Application process.* An authorized application form shall be fully completed, properly executed and filed with the ~~City Attorney's Office~~ Engineering Department. Upon filing, the application shall include the following information: name and address of applicant;

identification of whether applicant is a partnership, individual, corporation, group of individuals, religious organization, political organization, social organization or fraternal organization; name, title and contact information of the primary contact person representing applicant; location, size construction and dimensions of encroachment; certificate of insurance; application fees and a picture, diagram or sketch of the encroachment.

- a. Upon verification of a completed application, the ~~City Attorney~~ City Engineer shall ~~forward the application to the Director of Public Works. The Director of Public Works will~~ then review and provide written comments to the Board prior to having the application placed on the Board's agenda.
- b. The application must be received at least 45 days in advance of the need for any encroachment.

SECTION V: Section 40-108(5) is hereby amended to read as follows:

- (5) *Authorization of person executing document.* The persons executing the application shall provide proof satisfactory to the Board that they are authorized to do so by the person in whose name the permission is requested and the application must document said authorization. If the Board grants an application and issues a permit, the permit will not be valid until executed by the permit holder and returned to the ~~City Attorney's Office~~ Engineering Department where the ~~City Engineer Attorney~~ City Engineer will execute the permit on behalf of the City.

SECTION VI: Section 40-108(7) is hereby amended to read as follows:

- (7) Duration of permit. Other than those short term permits allowed in this article and long-term automatic irrigation system permits, the permit shall have a term of one year commencing of January 1 and ending on December 31. Short term permits shall not exceed 89 days.

SECTION VII: Section 40-108(10) is hereby amended to read as follows:

- (10) *Placement, maintenance, removal or suspension of permit.* The placement, maintenance and removal of all encroachments shall be by the permit holder, solely at such person's expense.
 - a. The permit holder agrees to alter or remove the encroachment, when deemed to interfere with right-of-way maintenance or a public improvement project within ten days of the receipt of written notice from the City Engineer ~~Director of Public Works~~. Should the permit holder fail to carry out the required work, the City Engineer ~~Director of Public Works~~ may cause the removal of the encroachment, and shall certify the costs thereof in the proper manner to have them levied as a special charge against such property and/or accompanying bond, and the proper City officials are authorized and directed to enter such charges on the tax rolls.
 - b. The Board may suspend or revoke any permit issued hereunder and order the removal of any encroachment placed in the right-of-way upon ten days' notice. The permit holder shall have a reasonable time, not to exceed five days, in which to file a written request with the ~~Director of Public Works~~ City Engineer to be heard in said manner, and show cause why the proposed actions should not be taken. However, an encroachment may be removed without prior notice or opportunity to be heard where it constitutes an immediate danger in the public health, safety or welfare, where it is not in conformance with representations made in the

application, where the certificate of insurance has expired or where placed within any right-of-way without a permit or contrary to the provisions of the permit or this article. In such cases, an opportunity for a post-removal hearing shall be provided before the Board.

- c. An applicant may not reapply for substantially the same permit for a period of one year if the Board, or Common Council has denied the application. A permit holder may not reapply for substantially the same permit for a period of one year if the Board, or the Common Council has revoked the permit.

SECTION VIII: Section 40-108(11) is hereby amended to read as follows:

- (11) *Renewal application.* The permit holder shall, on an annual basis, file a City authorized renewal application form with the City ~~Attorney's~~ Engineer's Office prior to the expiration of the permit. The following items shall be filed with the renewal form:
 - a. The annual renewal fee in the amount established by resolution.
 - b. A valid certificate of liability insurance.

SECTION IX: Section 40-108(12) is hereby amended to read as follows:

- (12) *Appeal.* Should the Board deny an initial application, renewal application, or revoke or suspend a permit, the applicant or permit holder, by filing a written notice of appeal with the City Clerk within ten days following, but not including, the day of denial, may appeal said action to the Common Council. The appeal will not be heard when the applicant or permit holder failed to provide notice to the ~~Director of Public Works~~ City Engineer or show cause to the Board why the permit should not be suspended or revoked. The appeal shall not occur where the applicant or permit holder failed to pay the appeal fee in the amount established by resolution. Prior to the appeal before the Common Council, the Board shall issue a report of its findings and decision to the Common Council for its consideration. The Judiciary and Administration Committee shall hold a public hearing on the matter and issue its report to Council. Upon receiving these reports, the Common Council shall decide the appeal in open session by majority vote of those present and voting. The decision of the Common Council shall not be revisited for the remainder of the term of the permit. The provisions in this section apply in lieu of Wis. Stat. ch. 68 and section 2-4.

SECTION X: Section 40-108(16)(b) is hereby amended to read as follows:

- b. The permit may be terminated by the permit holder at any time by providing the City Engineer ~~Director of Public Works~~ written notice of the permit holder's desire to terminate. Following removal of the encroachment and restoration of the public area on which the encroachment existed to the satisfaction of the ~~Director of Public Works~~ and City Engineer, the City Clerk will then record in the register of deeds a suitable document terminating the permit, if necessary.

SECTION XI: Section 40-108(17) is hereby amended to read as follows:

- (17) *Enforcement.* The enforcement of this article shall be under the jurisdiction of the ~~Department of Public Works~~ City Engineer's Office, Department of Planning and Economic Development and Police Department, who shall have the power to inspect encroachments to determine compliance with this article. The ~~Department of Public Works~~ City Engineer's Office, and Department of Planning and Economic Development

