



City of Madison Decorative Pavement Painting Information and Application Packet

September 2014

Traffic Engineering Division
Madison Municipal Building
215 Martin Luther King, Jr., Boulevard, Suite 100
PO Box 2986
Madison, Wisconsin, 53701-2986
608-266-4761
traffic@cityofmadison.com

Background

The purpose of Decorative Pavement Painting is to bring neighbors together and enhance the appearance of their neighborhood. Decorative Pavement Painting is a community building and placemaking project. It is not traffic calming. Do not expect traffic speeds or volumes to decrease as the result of a Decorative Pavement Painting project. Decorative Pavement Painting requires an ongoing commitment to maintain the painting. Paintings will need to be touched up or repainted every 1 - 3 years. Groups applying for Decorative Pavement Painting permits will enter into an agreement with the city to maintain the paintings over time. This also provides for continued community coming together. If paintings are not maintained the city can have them removed at the applicant's expense. Temporary paintings, using water soluble chalk, are also permitted.

The full city ordinance covering Decorative Pavement Painting is attached as Appendix 6. The following information will explain the process and provide the forms and other information you need to apply for a Decorative Pavement Painting Permit and carry out your project. Read the information in this packet before starting to fill out the application. Following the steps outlined below will help ensure a successful project.

How to Begin

Start by talking with your neighbors to see if there is interest in a Decorative Pavement Painting project. This is a group project. You will need the support and participation of as many of your neighbors as possible in the planning, design, painting and maintenance of the painting. A petition of area residents, businesses and/or property owners will be needed later in the process.

If there is enough interest, contact Traffic Engineering to make sure the location you are interested in painting is eligible. Decorative Pavement Painting projects are typically done at intersections, although mid-block locations and cul-de-sac bulbs can be painted as well. The street(s) need to be classified as local streets, have a speed limit of 25 mph or less, and not be closer than 200 feet from a busier street. To see if the street(s) you are interesting in painting are local streets and are eligible for painting, call Traffic Engineering at 608/266-6225 or e-mail traffic@cityofmadison.com. The City Traffic Engineer will determine if a proposed location meets the criteria for a decorative pavement painting project.

Contact your Alder. He or she needs to be informed of the project and might have insights into potential issues or concerns. Your application will need to include a letter or e-mail of support from the Alder.

Contact your Neighborhood Association or Neighborhood Planning Council. They will be your sponsor and actually file the application for your project. Other eligible applicants include a business association or other non-profit community organization that would be eligible for a neighborhood grant administered by the Planning Division.

The applicant organization will need to have a general liability insurance policy. Their insurance company may also require a special event rider for when you do the painting. Check with the insurance company to see what coverage you have and what you might need for this activity. The required insurance is indicated on the application, see Appendix 4. If you or your potential sponsor have questions about the insurance requirement, please contact the city's Risk Manager at (608) 266-5965 or eveum@cityofmadison.com.

To determine who your Alder is, see <http://www.cityofmadison.com/council/>

For lists of Neighborhood Associations, Neighborhood Planning Councils, and Business Associations see:
Neighborhood Associations

http://www.cityofmadison.com/neighborhoods/profile/association_contact_list.html

Planning Councils <http://www.cityofmadison.com/neighborhoods/plancouncilcontacts.htm>

Business Associations

<http://www.cityofmadison.com/neighborhoods/documents/BusinessAssociationMap.pdf>

Non-profit organizations are generally only eligible for neighborhood grants in areas without a functioning neighborhood association.

Once you have determined that your desired pavement painting location is eligible and you have a good sense of support from your neighbors, Alder, and Neighborhood Association or other eligible applicant, you are ready to move on to the next steps.

Developing Your Design

You need to develop your design before circulating the petition. The design needs to be attached to the petition. When people sign the petition they are indicating approval of three things: the concept of painting the street, the specific location to be painted, and the design to be painted.

The design needs to meet the following criteria. You should have your design reviewed and approved by Traffic Engineering before circulating your petition.

Please keep the following in mind when developing your pavement painting design.

The painting needs to work in connection with the ordinary uses of the roadway, and cannot be designed to attract pedestrians or bicyclists into portions of the roadway that are not intended for their use.

Proposed paintings can only include decorative designs and patterns. Paintings cannot contain text, numerals, symbols, overt messages or any images designed to convey a message of any kind, including commercial messages. Designs cannot include any relief or texture (except anti-skid texturizing material), and cannot create a three-dimensional or multi-dimensional effect or other optical illusion.

The design cannot include any element that mimics or imitates an official traffic control device or marking or would be confused with a traffic control device or marking.

Designs cannot include any element that interferes with or hinders the visibility of an official traffic control device or marking already in place, such as stop lines, marked cross walks, edge lines, lane markers, bike lane markers, etc., or that would create a safety hazard for motor vehicle operators, bicyclists or pedestrians.

All pavement painting designs need to be approved by Traffic Engineering. Submitted designs should be in color at a legible scale with dimensions included. The drawing should include locations of curb ramps, marked crosswalks, stop bars, and other relevant traffic markings and features.

Circulate Petition

After the design has been approved you can begin to collect signatures on the petition. Traffic Engineering will determine the petition area. Generally, this will be 200 feet in all directions from the painting location. A larger area, up to 600 feet (a typical city block length) can be required if it is felt a larger area will be impacted by the painting.

The petition form you need to use is included in Appendix 2. You can make as many copies of this form as you need. Remember to bring a color copy of the approved painting design with you when gathering signatures. Signatures indicating approval of the project, location and design need to be gained from at least 60% of the total number of residential dwelling units, businesses, and non-residential properties within the petition area. Each dwelling unit, business and non-residential property is entitled to one signature.

Once you have collected signatures from at least 60% of those within the petition area you are ready to assemble your application packet.

Completing and Submitting the Decorative Pavement Painting Permit Application

Once you have successfully completed the above steps

- confirmed that the location you want to paint is eligible,
- have the support of the Alder,
- have an eligible sponsor willing to submit the application and maintain the required insurance,
- developed your design and have it approved, and
- gathered enough signatures on the petition from the area defined by Traffic Engineering,

you are ready to complete and submit the permit application. The application form is attached as Appendix 4.

Make sure that the applicant association is fully aware of the on-going insurance and other contractual obligations associated with this permit. These are included on the application form.

Proof of insurance and information on the type of paint and anti-skid additives (manufacturer and product line) will be needed after the Decorative Pavement Painting permit is issued but before painting occurs.

The completed application, including the scale color drawing of the design in relation to the location to be painted and the completed petition, should be sent to:

Economic Development Division
Madison Municipal Building
215 Martin Luther King, Jr. Boulevard
P. O. Box 2983
Madison, WI 53701-2983

Attn: Jenny Frese, Real Estate Agent
jfrese@cityofmadison.com
608-267-8719

The application approval process will generally take between 2 - 4 weeks.

After Your Permit is Approved

Once your Decorative Pavement Painting permit is approved you are ready to plan your painting day.

Since you will need to close the intersection or block for painting (the type of closure depends on the painting location), you may also need a block party permit for the day you do the painting. Information on the block party permit can be found on the Parks Division website at <http://www.cityofmadison.com/specialevents/blockParties/> or by calling the Parks Special Event Coordinator at 266-6033.

Submit your proof of insurance and information on the type of paint and anti-skid additives (manufacturer and product line). You cannot do your painting until these have been received by the city and you have been notified of their approval. Send both of these to:

Traffic Engineering Division
215 Martin Luther King, Jr., Blvd, Suite 100
PO Box 2986
Madison, Wisconsin, 53701-2986
traffic@cityofmadison.com
608-266-4761

Recruit neighbors to help with the painting. Plan to have food and water for participants. Arrange for participants to be able to use bathroom facilities at a neighbors houses or rent a Porta-Potty for the day. Schedule a rain date, just in case. Take pictures and send a few to Traffic Engineering, including the finished product. Have fun!

Ongoing Maintenance

Your responsibilities: Your Decorative Pavement Painting will require regular maintenance. Paint will wear from traffic, snow plowing and street sweeping, and fade from sun exposure. You might need to touch up your painting every year or two and repaint every 2-3 years or so, depending on location.

The applicant is responsible for all maintenance of the pavement painting, including all costs and materials, no matter the reason for the need for maintenance. If paintings are not maintained, the City can have the painting removed, charge you for the cost of this removal, and revoke the permit.

You will need to secure a new Street Use Permit to safely close the street before doing any maintenance work.

City Maintenance: The road surface where your painting is located will also need to be maintained by the City. The following is a summary of maintenance work that you can expect the City to perform, which may impact your design:

To determine what type of work is needed, all City of Madison streets (pavement, curb & gutter) are rated on a scale of 1-10 every two years:

- Pavement rated 7 or above: Crack sealing (Crack sealing pavements is done at 5 and 10 years of age.)
- Chip sealing is typically done every 5 years after the second round of crack sealing.
- Pavement rated 4 to 6: Resurfacing
- Curb and Pavement rated 3 to 5: Reconstruction

Crack Sealing is the first preventive measure. Crack sealing is typically done at 5 and 10 years of age. The cracks in the street are cleaned and filled with a sealant. Sealing the cracks prevents surface water from penetrating into the pavement foundation and prevents more cracks from occurring.

Chip Sealing is typically done every 5 years after the second crack seal. Chip seal is an application of an emulsion (asphalt and water) and an aggregate (chips) to keep water out of the pavement.

Resurfacing typically includes placing a new layer of asphalt over the existing pavement. Pavement in very poor condition is pulverized prior to a new surface being placed.

Once a street and curbs get a rating of 5 or below, then the street is considered for **reconstruction**. A street is generally reconstructed every 30 to 40 years, based on the street rating.

Chip sealing, resurfacing and reconstruction will completely cover up your painting! When this occurs you will have to decide whether or not you want to repaint your design. You do not need to apply for a new Decorative Pavement Painting permit when this occurs, provided you repaint the original approved design. If you want to change the design, then you will need to apply for a new permit. Whether you decide to repaint or not, please inform Traffic Engineering of your decision.

Potholes are a fact of life in Wisconsin. Cycles of freezing and thawing and moisture erode the road base which creates pavement stress. Stressed pavement and traffic combine to cause potholes. From January 1 to August 21, 2014, the City filled 81,359 potholes. If potholes occur in the area of your painting, you will have to repaint those areas.

Utility Work: There are many utilities located underground in Madison, including water, sewer and gas lines, phone, fiber optic and other communications cables. When there are repairs needed, or upgrades, the street will be torn up and patched. The street might also be torn up when new development or redevelopment projects connect into underground utilities. ***If any of these occur in the area of your painting, you are responsible for repainting the disturbed areas.***

Appendices

- Appendix 1 Internet Resources
- Appendix 2 Petition Blank
- Appendix 3 Decorative Pavement Painting Check List
- Appendix 4 Decorative Pavement Painting Permit Application
- Appendix 5 Cost Calculator
- Appendix 6 City of Madison Decorative Pavement Painting Ordinance

Appendix 1: Internet Resources

City Website for Decorative Pavement Painting.

<http://www.cityofmadison.com/trafficEngineering/DecorativePavementPainting.cfm>

City of Madison Street Functional Classification map.

http://www.cityofmadison.com/trafficEngineering/documents/FunctionalClass_8.5x11.pdf

To determine who your Alder is, see <http://www.cityofmadison.com/council/>

For lists of Neighborhood Associations, Neighborhood Planning Councils, and Business Associations see:

Neighborhood Associations

http://www.cityofmadison.com/neighborhoods/profile/association_contact_list.html

Planning Councils

<http://www.cityofmadison.com/neighborhoods/plancouncilcontacts.htm>

Business Associations

<http://www.cityofmadison.com/neighborhoods/documents/BusinessAssociationMap.pdf>

Parks Division Special Events page on Neighborhood Block Parties

<http://www.cityofmadison.com/specialevents/blockParties/>.

City of Madison street maintenance programs

Crack Sealing and Chip Sealing Programs

<http://www.cityofmadison.com/transportation/roadworks/chipcrackSeal.cfm>

Street Resurfacing Program

<http://www.cityofmadison.com/engineering/resurfacing/>

Pavement Maintenance Program Presentation

<http://www.cityofmadison.com/transportation/roadworks/documents/ChipSealPresentation.pdf>

Appendix 3 Decorative Pavement Painting Check List

You should be able to answer yes to all of the following items. If not, please consult the information in this packet or contact Traffic Engineering for assistance.

YES	NO	
		Alder has been notified and has supplied a letter or e-mail of support
		Applicant is an eligible association or non-profit serving the area proposed to be painted.
		Applicant has proof of required insurance.
		Petition results indicate approval from at least sixty percent (60%) of the total number of residential dwelling units, businesses, and non-residential properties (one signature allowed per dwelling unit, business and non-residential property).
		Intersection of two "local" functional class streets or ----- Mid-block "local" street
		Location is greater than 200 feet from any street with a functional class higher than "local".
		Statutory or posted speed limit is 25 miles per hour or lower.
		Design contains decorative designs and patterns only ----- no text ----- no numerals ----- no symbols ----- no overt messages ----- no images designed to convey a message of any kind
		Design does not create a 3-dimensional effect ----- No multi-dimensional effect ----- No other optical illusion.
		Design does not include any element that interferes with or hinders the visibility of an official traffic control device or marking already in place, such as stop lines, cross walks, lane markers, etc.
		Design does not include any element that mimics or imitates an official traffic control device or marking or that would be confused with the same.
		Paint to be used will be acrylic water-based traffic marking paint using white, yellow, blue, red, or black only. Other colors may be obtained by mixing these colors. Or ----- Application is for temporary water-soluble chalk only.
		Paint contains no reflectivity.
		Paint contains no texture (except for anti-skid texturizing material under sub. (6)(d)).

Appendix 4: Application

To: Economic Development Division
Madison Municipal Building
215 Martin Luther King, Jr. Boulevard
P. O. Box 2983
Madison, WI 53701-2983

Attn: Jenny Frese
Real Estate Agent
608-267-8719

APPLICATION
DECORATIVE PAVEMENT PAINTING PERMIT – MGO 10.42

1. Full legal business name of applicant association**: _____

Association type: _____

2. Name of Association agent or designee: _____
(If applicant is incorporated, also provide name of Registered Agent):

Mailing Address: _____

Phone Number: () _____

E-Mail Address: _____

3. Description and depiction of the proposed street location and decorative pavement painting. (Ex: intersection, street names, block and/or property numbers). **Please attach a color drawing or plan showing the detailed color design and proposed location, at a legible scale with dimensions included. Include locations of curb ramps, marked crosswalks, stop bars, and other relevant traffic markings and features.**

4. I, _____, certify that the district Alder has been notified and provided with a copy of this application via mail or email.

Alder district and name of Alder: _____

Eligible Applicants include a Neighborhood Association or Neighborhood Planning Council or business association recognized as such by the City, or other non-profit community organization that holds **insurance (see #3 on following page). The location to be painted must be within the area served by the organization.

IN MAKING THIS APPLICATION THE UNDERSIGNED IS AWARE OF AND AGREES TO THE FOLLOWING REQUIREMENTS, AS WELL AS THOSE SET FORTH IN MADISON GENERAL ORDINANCES 10.31 AND 10.42:

1. **APPLICATION FEE.** A non-refundable application fee of **\$150**, made to the City Treasurer, shall accompany this application. If the application is not approved, or the conditions of approval are unacceptable to the applicant, the applicant may appeal the rejection or conditions to the Board of Public Works, within 30 days of notification of the City's decision.
2. **INDEMNIFICATION.** If the Pavement Painting permit is approved, **APPLICANT AGREES TO BE LIABLE TO AND INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY OF MADISON, ITS OFFICERS, OFFICIALS, AGENTS AND EMPLOYEES, AGAINST ALL LOSS OR EXPENSE (INCLUDING LIABILITY AND ATTORNEY'S FEES) BY REASON OF ANY CLAIM OR SUIT, OR OF LIABILITY IMPOSED BY LAW UPON THE CITY OR ITS OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES FOR DAMAGES BECAUSE OF BODILY INJURY, INCLUDING DEATH AT ANY TIME RESULTING THEREFROM, SUSTAINED BY ANY PERSON OR PERSONS OR ON ACCOUNT OF DAMAGES TO PROPERTY, INCLUDING LOSS OF USE THEREOF, ARISING FROM, IN CONNECTION WITH, CAUSED BY OR RESULTING FROM THE ACTS OR OMISSIONS OF THE APPLICANT OR ITS OFFICERS, OFFICIALS, MEMBERS, AGENTS, EMPLOYEES, ASSIGNS, GUESTS, INVITEES, SUBLESSEES OR SUBCONTRACTORS, ARISING OUT THE ACTIVITIES FOR WHICH THE PERMIT IS GRANTED, WHETHER CAUSED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF THE CITY OR ITS OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES.**
3. **INSURANCE.** If the permit is granted, applicant is required to provide proof of commercial general liability insurance with minimum limits of \$1,000,000 per occurrence, contractual liability coverage, naming the City of Madison and its officers, officials, agents and employees as additional insured. The City Risk Manager reserves the right to requires higher limits and other coverage terms. Applicant shall keep the required insurance in effect throughout the term of the permit. Insurance can be provided after the permit is issued but before the day of painting.
4. **REPAIR OF DESIGN.** The applicant is solely responsible for maintaining the design in good condition and repair. If the design becomes deteriorated or damaged and in the opinion of the City, the design is repairable, the applicant must repair it or make arrangements for the repair within sixty (60) days of written notice by the City. "Repair" means restoring the original design to the originally-approved specifications. All repairs or maintenance, whether voluntary or in response to a notice under this section, shall be in compliance with all requirements MGO 10.42 and will require a new Street Use Permit. If the design is not repaired according to the notice, the City may remove the design and restore the roadway to its previous condition, at the expense of the applicant. The procedures in this paragraph for maintenance and removal may be exercised in addition to the procedure for removal of an encroachment in Sec.10.31(3) (c). Removal and charges for costs associated with removal shall be as allowed by Sec. 10.31.
5. In accepting the permit, the applicant waives any and all right to contest in any manner the validity of City of Madison Ordinances 10.31 and 10.42 or Sections 66.0425 and 182.0175, Wisconsin Statutes, or the amount of compensation charged by the City of Madison.
6. The applicant may be required to comply with additional conditions imposed by City staff advisors, more particularly, the City Traffic Engineer.

I have read this entire application form and paragraphs 1-6 above and have had an opportunity to ask questions. I have been authorized by the applicant association to sign this application and agreement on behalf of the applicant and to bind the applicant to the terms of this application including paragraphs 1-6 above.

APPLICANT OR DESIGNEE/AGENT:

Signature

Print Name

Phone Number

E-Mail Address

Date

THE PROCEDURE FOR REVIEW AND APPROVAL OF THIS APPLICATION IS AS FOLLOWS:

1. Applicant contacts Traffic Engineering to confirm location is acceptable.
2. Applicant develops pavement painting design based on the criteria in MGO 10.42. Applicant should pre-approve the design with Traffic Engineering before gathering petition signatures.
3. Applicant must provide a petition with signatures from not less than sixty percent (60%) of the total number of residential dwelling units, businesses, and non-residential properties within a two hundred (200) foot radius from the proposed design location, indicating approval of the project and location. The petition area can be expanded at the discretion of the City Traffic Engineer up to a radius of six hundred (600) feet (approximate distance of a standard City block). Each dwelling unit, business, and non-residential property is entitled to one signature. The petition form is included in the Decorative Pavement Painting Information and Application packet. Traffic Engineering will determine the petition area based on the location and design.
4. Applicant, completes an application for Decorative Pavement Painting Permit showing the proposed location, design and including the petition to be approved through the Privilege in Streets *process* per MGO 10.31. The Decorative Pavement Painting Information and Application packet can be obtained online or from the Economic Development Division, 215 Martin Luther King, Jr. Boulevard, GR-100, Madison, WI 53710.
5. Applicant submits completed application form to the Economic Development Division along with drawings, petition and \$150 application fee.
6. The application materials are reviewed by City staff to determine conditional approval or rejection.
7. If approved, the applicant is furnished with a copy of the Decorative Pavement Painting Permit setting forth the requirements under which the encroachment is permitted.
8. Applicant presents Decorative Painting Permit, along with application for Street Use to the City Parks Department to obtain a Street Use Permit. Street Use application can be found at: <http://www.cityofmadison.com/specialevents/blockParties/> and is required to close the street during the paint project. Call the Parks Special Event Coordinator at 266-6033 with questions
9. Applicant submits certificate of insurance to **City Traffic Engineering, 215 Martin Luther King Jr. Blvd. Room 100**, or email: traffic@cityofmadison.com, **at least 2 business days prior to the date of painting**, so it can be approved by the City Risk Manager.

THIS PROCESS TAKES ABOUT 2 – 4 WEEKS

Appendix 5 Cost Calculator

The following are the major typical costs you need to account for when planning a Decorative Pavement Painting Project. This worksheet is intended as a guide. You might not need all of these items, or you might find additional items you need to account for.

Item	Cost	Comments / Notes
Decorative Pavement Painting Permit	\$150	
Block Party Permit	\$50	
Insurance		
Artist design assistance		If needed
Paint		Traffic paint required
Non-Skid Additive		Required
Sidewalk chalk		To mark out the design before painting
Brushes, rollers, paint trays/buckets, etc.		
Clean up supplies		
Food, water, etc. for painting day		
Porta-Potty for painting day		If needed

Appendix 6
City of Madison

Decorative Street Painting Ordinance

Taken from Madison General Ordinances on-line June 1, 2014

<https://library.municode.com/index.aspx?clientId=50000> See Chapter 10

10.42 DECORATIVE PAVEMENT PAINTING DESIGN PERMIT.

- (1) Purpose. The purpose of this ordinance is to permit the painting of the roadway on certain local streets by granting a permit for neighborhood associations and others with a stake in the neighborhood to paint the pavement as provided herein. By permitting decorative application of paint the City of Madison does not intend to create a forum for speech nor to convert the surface of the highway right of way into a forum for speech, nor does the City intend such paintings to be an official traffic control device. Decorative designs hereunder shall be intended to enhance the appearance of the roadway and work in connection with the ordinary uses of the roadway, and shall not be designed to draw pedestrians, or cyclists into portions of the roadway that are not intended for their use.
- (2) Charter Ordinance. Certain state statutes and administrative rules, specifically Wis. Stat. § 86.19, and administrative regulations adopted pursuant to that statute, raise doubts about whether such painted designs may be located on a roadway within the limits of highway rights-of-way. The determination of whether to allow local neighborhood and business associations to apply decorative paint to a local street as described in this ordinance is a local affair of the government of the City of Madison. Therefore, the City of Madison, through its Common Council, hereby determines that, to the extent Wis. Stat. § 86.19 and related Wisconsin Administrative Code regulations restrict the City's ability to approve the decorative application of paint within the limits of any street or highway right of way, the City will not be governed by sec. 86.19 to that extent. Any signs not authorized by this Ordinance shall remain subject to regulation pursuant to state and local law. This Charter Ordinance shall not apply to State Trunk Highways as defined in Wis. Stat. § 84.02. This Section 10.42 is a Charter Ordinance adopted pursuant to Wis. Stat. § 66.0101 and Article XI, Sec. 3 of the Wisconsin Constitution.
- (3) Eligible Applicants. A Neighborhood Association or Neighborhood Planning Council recognized as such by the City, or a business association or other non-profit community organization that would be eligible for a neighborhood grant administered by the Planning Division, may apply for a permit to apply a decorative painted design to the surface of a local City roadway within the area served by the organization.
- (4) Application through Privileges in Streets.
 - (a) Application shall be made to the Economic Development Division of the Planning and Community and Economic Development Department using the procedure for Privileges in Streets in Sec. 10.31. The designee of that division shall notify the City Traffic Engineer upon receipt of the application. The application form shall include:
 1. Full legal business name of the applicant association, and type of association.
 2. Registered Agent for applicant, if applicable.
 3. Name and contact information of a person with primary responsibility for the application.
 4. Scale, color drawing showing the detailed design and proposed location meeting the requirements of Sec. 10.31.
 5. Petition with a signature from not less than sixty percent (60%) of the total number of residential dwelling units, businesses, and non-residential properties within a two hundred (200) foot radius from the proposed design location, indicating approval of the project and location. The petition area can be expanded at the discretion of the City Traffic Engineer up to a radius of six hundred (600) feet (approximate distance of a standard City block). Each dwelling unit, business and non-residential property is entitled to one signature.
 6. Statement that the alderperson for the district in which the painting project is proposed has been notified and given a copy of the application by regular mail or electronic mail.
 7. Any other information required by Sec. 10.31.
 8. Any additional information deemed necessary by the Traffic Engineer.

- (b) Application Fee. The fee to apply for a permit to paint the pavement under this section shall be one hundred and fifty dollars (\$150) and nonrefundable. This does not include the separate application fee for the Street Use Permit required by sub. (9) to close the street for the painting project. However, applicants are exempt from the application fee and annual fee for a privilege in streets, under Sec. 10.31(3)(f).
- (c) Temporary Chalk Applications. An application to paint the pavement with water-soluble chalk that meets the criteria of Sec. 23.06(6) shall be made using the same criteria of sub. (a) except that such applications are not reviewed under Section 10.31 and may be administratively approved or denied by the Traffic Engineer. All provisions of this ordinance shall apply to the City Traffic Engineer's review and to any permit issued, except those provisions that expressly incorporate Sec. 10.31.
- (5) Eligible Locations:
- (a) A painted intersection design may be located at the intersection of two streets both with a functional classification of "local" or a mid-block location on a street with a functional classification of "local," only on streets with a speed limit of not more than twenty-five (25) miles per hour, and shall not be located within two hundred (200) feet of an intersection with a street with a higher functional classification. State Trunk Highways, County Highways and federally funded mass transit ways are not eligible. The location must be within the area served by the applicant association.
- (b) The City Traffic Engineer must approve the proposed location. Whether a proposed location meets the above criteria, including the functional classification of the street, shall be determined by the City Traffic Engineer.
- (6) Paint and Design Elements.
- (a) The proposed painting shall include decorative designs and patterns only, and shall contain no text, numerals, symbols, overt messages or any images designed to convey a message of any kind, including commercial messages.
- (b) Prohibited paint or design features:
1. No retroreflectivity.
 2. The paint and resulting design shall not include any relief or texture (except anti-skid texturizing material under sub. (6)(d) herein, if approved by the City Traffic Engineer.)
 3. The design shall not create a three-dimensional or multi-dimensional effect or other optical illusion.
 4. The design shall not include any element that mimics or imitates an official traffic control device or marking or would be confused with the same.
 5. The design shall not include any element that interferes with or hinders the visibility of an official traffic control device or marking already in place, such as stop lines, marked cross walks, edge lines, lane markers, bike lane markers, etc.
 6. The design shall not include any feature or element that, in the opinion of the City Traffic Engineer, would create a safety hazard for vehicles or pedestrians.
 7. Nothing about the design shall violate any applicable city, state or federal law.
- (c) The City Traffic Engineer shall review the proposed design to determine compliance with the criteria of this ordinance, and shall take into account the proposed design in relation to the configuration of the intersection or roadway, including but not limited to: the overall shape and size of the intersection or roadway, the presence and location of stop lines and marked and unmarked crosswalks, and whether or not the proposed design would interfere with such markings or is likely to confuse motor vehicle drivers, bicycle operators or pedestrians using the roadway.
- (d) Acceptable Paint Materials.
1. Only acrylic water-based traffic marking paint may be used, in the colors traditionally available (white, yellow, blue, red, and black) or other colors that may be achieved by mixing the traditional colors.
 2. Paint must not result in a slippery surface. To accomplish this, the traffic marking paint must contain an anti-skid additive approved by the City Traffic Engineer.
 3. Paint must not be retroreflective.
 4. A temporary chalk design applied entirely with water-soluble chalk that meets the criteria of Sec. 23.06(6) may be used instead of paint and shall be subject to all design and location criteria herein.

- (7) Approval Criteria. All applications shall be reviewed according to the procedures for privileges in streets in Sec. 10.31, however no permit shall be issued without the review and express approval of the City Traffic Engineer who shall apply the criteria of this ordinance to all such applications.
- (8) Appeal Process. Appeals of a decision to approve or deny an application under this section shall be available as provided in Sec. 10.31(2)(b), and any such appeal may also include a review of the decision of the City Traffic Engineer under this ordinance.
- (9) Project Installation Procedure. Once the design has been fully approved under this ordinance, the applicant must apply for and obtain a Street Use Permit under Sec. 10.056 for permission to close the affected street(s) for the date(s) and times of the painting project. No work may be performed on the painting project within the roadway or on a bike path without an approved Street Use Permit for the date(s) and time(s) of the work. All requests to close the street are subject to Sec. 10.056 and the decision of the Street Use Staff Commission as provided in that ordinance.
- (10) Insurance and Indemnification. If a permit is approved the applicant shall agree to indemnify the City of Madison and provide proof of insurance as required by Sec.10.31. Compliance with Sec. 10.31 shall be sufficient for the insurance and indemnification requirements of this section.
- (11) Repair and Maintenance of the Design. The applicant shall be solely responsible for maintaining the design in good condition and repair. If the design should become deteriorated or damaged and in the opinion of the City, the design is repairable, the applicant must repair it or make arrangements for the repair within sixty (60) days of written notice by the City. "Repair" shall mean restoring the original design to the originally-approved specifications. All repairs or maintenance, whether voluntary or in response to a notice under this section, shall be in compliance with all requirements of this ordinance and shall require a Street Use Permit as described in sub. (9). If the design is not repaired according to the notice. The City may cause the design to be removed and restore the roadway to its previous condition, at the expense of the applicant. The procedures in this paragraph for maintenance and removal may be exercised in addition to the procedure for removal of an encroachment in Sec.10.31(3)(c). Removal and charges for costs associated with removal shall be as allowed by Sec. 10.31. The bond requirement in Sec. 10.31(3)(c) may be waived upon the recommendation of the City Risk Manager.
- (12) No Renewals. Once issued, a permit under this section authorizes the design as approved for as long as the design exists, as long as the design does not change and it is repaired and maintained as required by sub. (11). A request to change the originally-approved design will require an application for a new permit and a new permit fee and be processed as a new application.
- (13) Damage, Removal. In granting a permit under this ordinance, the City of Madison shall not be responsible for any maintenance or repairs or removal of the design; any damage to the design regardless of cause, including but not limited to damage caused by any utility or contractor performing work in the right-of-way or resulting from street surface maintenance such as street cleaning, plowing and road treatment for snow and ice. Utility work or roadwork by the City or a utility may result in damage to the design requiring the design to be permanently removed. Additionally, if any portion of the design creates a hazard in the sole opinion of the City, the City may remove the design without notice to the applicant. The permit shall be considered terminated upon removal of the design for any reason by the City or the applicant.
- (14) Permit Revocation. A permit under this section may be revoked by the City at any time if the applicant violates the conditions of the approved permit, including but not limited to installing something other than the approved design, modification of the design subsequent to the initial installation, or violations of the terms of the encroachment agreement under Sec. 10.31. Prior to revocation of a permit under this subsection, the City shall send written notice to the applicant, except that if the encroachment agreement is terminated according to the procedures in that agreement or in Sec. 10.31, the permit under this section automatically terminates. The permit shall also be considered terminated upon removal of the design for any reason under subs. (11) or (13) herein.