

## TITLE 6

### Public Works

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## CHAPTER 1

### Grades

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#### SEC. 6-1-1 ESTABLISHMENT OF GRADES.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council and the same recorded by the City Clerk in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- (b) **New Sidewalk Grade.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Common Council, or its designee, shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

State Law Reference: Sections 62.14(7) and 62.16, Wis. Stats.

#### SEC. 6-1-2 ALTERATION OF GRADE PROHIBITED.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City of Washburn by any means whatsoever unless authorized or instructed to do so by the Common Council, or committee thereof. All such alterations of grade shall be recorded in the office of the City Clerk.

**SEC. 6-1-3 REGULATION OF UNDERGROUND UTILITIES.**

- (a) **Elevation.** The grade or elevation of all underground construction shall be a minimum of three (3) feet below the established grade of the street, alley, park, public property or easement. The three (3) feet shall be measured between the top of the established grade and the top of the underground construction.
- (b) **Approval of Location.** The location of any and all such underground construction must have the approval of the Common Council, or committee thereof.
- (c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Common Council, or committee thereof, before construction can begin.
- (d) **Inspection.** On request of the Common Council, or committee thereof, the utility company must provide opportunity for City officials to check any construction before it may be covered.
- (e) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction at the election of the Common Council, or committee thereof, and in accordance with its directions and specifications.
- (f) **Establishment of Grade.** At the request of the utility company, the Common Council, or committee thereof, shall, at the City's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.
- (g) **Emergency.** In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Common Council, or committee thereof, as soon thereafter as is reasonably possible.
- (h) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the City may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 6-2-3 and 6-2-4.
- (i) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation, without recourse to the City, of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

## Chapter 2

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# Streets and Sidewalks

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### **Sec. 6-2-1 Removal of Rubbish and Dirt from Sidewalks.**

No owner or occupant shall allow the sidewalk abutting on his/her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Common Council, or its designee, the City may cause the same to be done and report the cost thereof to the City Clerk who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.0627, Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

### **Sec. 6-2-2 Construction and Repair of Sidewalks.**

#### **(a) Sidewalk Repair or Construction.**

- (1) Where the Common Council deems sidewalks to be in the public interest, it shall be the duty of the abutting owner to build, repair, construct and perpetually maintain

sidewalks along or upon any street, alley or highway in the City of Washburn. The cost of sidewalk installation, repair or construction shall be paid by the property owner, unless by resolution the Common Council determines that such cost shall be paid by the City or shared between the property owner and the City. Any such resolution shall provide the specific reason or reasons for relieving the property owner of all or part of the cost of the work. 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 of Washburn, it shall proceed according to Sec. 66.0907, Wis. Stats.

- (2) All sidewalks within the City of Washburn hereafter shall be repaired, rebuilt and constructed in accordance with the specifications of this Section.
- (b) **Sidewalk Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the City unless he/she is under contract with the City to do such work or has obtained a permit therefor from the City Clerk at least two (2) days before work is proposed to be undertaken. No fee shall be charged for such permits.
- (c) **Standard Specifications for Sidewalk.**
  - (1) **General.** Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the City. All sidewalks constructed within the City of Washburn shall be constructed of concrete except as otherwise provided herein for driveway access.
  - (2) **Subgrade.** Subgrade shall be two (2) inches of sand fill, thoroughly and uniformly compacted and brought to correct grade placing of concrete and thoroughly wet down immediately before concrete is placed. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed.
  - (3) **Concrete.** The minimum quantity of cement per cubic yard shall be six (6) sacks of ninety-four (94) pounds each. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days. Asphalt, gravel, sand or wood sidewalks are prohibited.
  - (4) **Forming.** Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Forms shall be securely fastened, staked, braced and held firmly to required line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for twenty-four (24) hours after pour.
  - (5) **Jointing, Floating and Finishing.** Soon after screening and while the concrete is still plastic, the surface shall be floated with wood, cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed. Transverse expansion joints of one-half (1/2) inch thick and four (4) inches wide and five (5) feet long or premolded material shall be located every thirty (30) feet. Sidewalks must be marked off to make blocks five (5) foot square and be at right angles to the parallel lines. Any new

- sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half (1/2) by four (4) inch expansion joints of premolded material.
- (6) **Slope.** All forms must be approved by the Director of Public Works, or his/her designee, before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of one-fourth (1/4) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.
  - (7) **Width and Thickness.** Residential walks shall be five (5) feet in width and not less than four (4) inches thick except within driveway approaches where the minimum thickness shall be six (6) inches and butt to established grade line. Sidewalk width in front of commercial or industrial establishments shall be eight (8) feet or as determined by the Common Council, or committee thereof.
  - (8) **Finishing.** The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges and joints shall be given a finish with a one-quarter (1/4) inch radius edging tool. Dry cement shall not be spread on a wet surface to take up excess water. Finishing operations shall be delayed until water has disappeared. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.
  - (9) **Curing.** Concrete shall be kept moist by sprinkling, covering or a combination of both for a minimum of five (5) days.
  - (10) **Cold Weather Requirements.** When the temperature is less than forty (40) degrees F., all concrete placed in the forms shall have a temperature between fifty (50) degrees F. and seventy (70) degrees F. and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.
- (d) **Repair or Replacement of Defective Sidewalks.** Pursuant to Sec. 66.0907, Wis. Stats., the Common Council may order at any time property owners to repair or remove and replace any sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to so repair or remove and replace such sidewalk within sixty (60) days after service of the notice required by the Wisconsin Statutes, the Common Council shall repair or construct such sidewalk and the City Clerk shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the Common Council shall immediately direct the property owner to immediately make repairs. If the property owner shall fail to repair such sidewalk within the required period, the Common Council shall make the necessary repairs and the City Clerk shall enter the total cost thereof on the tax roll as a special tax against said parcel, unless by resolution the Common Council determines that such cost shall be paid by the City or shared between the property owner and the City. Any such resolution shall provide the specific reason or reasons for relieving the property owner of all or part of the cost of the work.

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

*Cross-Reference:* Section 6-2-16, Walkway Permit Requirements

*State Law Reference:* Sec. 66.0907, Wis. Stats.

### **Sec. 6-2-3 Excavations of Streets, Alleys, Public Ways and Grounds.**

- (a) **Performance of Work by City.**
  - (1) All excavations of streets, alleys and public ways and grounds within the City of Washburn shall be performed by the Public Works Department of the City of Washburn unless the Director of Public Works of the City of Washburn determines after reviewing the situation, that the City is unable to perform said task or it is in the best interest of the public and the City that the City not perform said excavation or related activities. If such a finding has been made in writing by the Director of Public Works, then any party requesting said excavations shall be required to apply for and obtain a permit as set forth hereinafter in Section 6-2-3.
  - (2) The cost of any excavation and cost of repairs required by said projects shall be the sole responsibility of the requesting party, and if the City performs said project, the estimated cost of said project shall be paid to the City in advance of the commencement of the project by the City. Any refund or additional charge shall be determined at the conclusion of the project. Additional charges shall be paid within thirty (30) days of invoice.
- (b) **Permit Required.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or City-owned easement within the City of Washburn without a permit therefor from the Director of Public Works.
- (c) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his/her agent. The applicant shall submit to the Director of Public Works at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The Director of Public Works shall determine if sufficient information is submitted.
- (d) **City Work Excluded.** The provisions of this Section shall not apply to excavation work under the direction of City departments or employees or to contractors performing work under contract with the City necessitating openings or excavations in City streets.

- (e) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-2-4(g) for pavement replacement.
- (f) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the Director of Public Works and payment of a Ten Dollar (\$10.00) renewal permit fee. Permit renewals shall be issued at the discretion of the Director of Public Works.
- (g) **City Standards; Fees.**
- (1) **City Standards.** All street work shall be performed in accordance with the current standard specifications for street openings found in this Section and Section 6-2-4. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
  - (2) **Fee.** The fee for a street opening permit shall be Ten Dollars (\$10.00) plus actual City expenses. Permit fees shall be paid to the City Clerk who shall issue his/her receipt therefor.
- (h) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the City Clerk satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000. The policy shall name the City of Washburn as the third-party insured.
- (i) **Bond.**
- (1) Before a permit for excavating or opening any public street, sidewalk, ditch, alley or public right-of-way may be issued, the applicant must execute and deposit with the City an indemnity bond in a sum determined by the Mayor conditioned that he/she will indemnify and save harmless the City of Washburn and its officers from all liability for accidents and damage caused by any of the work covered by his/her permit, and that he/she will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Common Council for a period of one (1) year, and that he/she will pay all fines of forfeitures imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such bond shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or

regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given. An annual bond may be given.

- (2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Common Council shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
  - (3) The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in an amount determined by the Director of Public Works.
  - (4) Whenever the Common Council shall find that any such work has become defective within one (1) year of the date of completion, he/she shall give written notice thereof to the contractor or to his/her surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Common Council to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.
  - (5) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Common Council as necessary to adequately protect the public and the City.
- (j) **Public Utilities.** All public utilities as defined in Sec. 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-2-4, any and all subparagraphs thereunder, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

### **Sec. 6-2-4 Regulations Governing Excavations and Openings.**

- (a) **Frozen Ground.** No openings or borings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and May 1st except where it is determined by the Common Council or Director of Public Works, or designee, to be an emergency excavation.
- (b) **Protection of Public.**
  - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Director of Public Works, and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Director of

Public Works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.

- (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
  - (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his/her project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
  - (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workers or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the City Clerk or Director of Public Works twenty-four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6-2-4(c).
  - (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-2-4(h).
- (c) **Pavement Removal.**
- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his/her work and in accordance with all applicable codes and regulations.
  - (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

- (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.
  - (4) The Director of Public Works may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.
- (d) **Excavation.**
- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
  - (2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.
- (e) **Backfilling.**
- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Director of Public Works, is unsuitable.
  - (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works, hauled in.
  - (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
  - (4) All excavations shall be subject to testing by the City. Backfilled material not achieving the compaction requirements by the City shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.
  - (5) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.
- (f) **Notice.** It shall be the duty of the permittee to notify the City Clerk or Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The City Clerk or Director of Public Works shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

- (g) **Pavement Replacement and Sidewalk, Curb and Gutter and Driveway Restoration.**
- (1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.
  - (2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.
  - (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the Director of Public Works.
  - (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.
  - (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed.
  - (6) Sidewalks shall be replaced the full width of the walk and minimum length shall be sixty (60) inches. All replaced walk shall be four (4) inches thick, except at driveways where it shall be six (6) inches thick. The new walk shall slope to conform to existing construction across the width of the walk toward the street.
  - (7) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.
- (h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under

any public street, alley easement, way or ground and his/her agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the Police Department immediately.

- (i) **Excavation in New Streets Limited.** Whenever the City determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination by the Common Council, the City shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.
- (j) **Repair by City.** The City may elect to have the City or a contractor working for the City make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining such repair for one (1) year shall be charged to the person making the street opening.

### Sec. 6-2-5 Obstructions and Encroachments.

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant, except as provided in Subsections (b) and (c).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
  - (1) Temporary encroachments or obstructions authorized by permit under Section 6-2-6 of this Section pursuant to Sec. 66.0425, Wis. Stats.
  - (2) Building materials for the period authorized by the Common Council, or its designee, which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
  - (3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.
  - (4) 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, street or alley.
  - (5) Obstructions authorized by permit pursuant to Subsection (c).
  - (6) Winter parking permitted on sidewalks in non-commercial districts.

(c) **Issuance of Permit.**

(1) The Common Council is authorized to issue a permit which allows property owners to place certain fixtures on sidewalks which immediately adjoin their property. In determining if a permit shall be authorized, all of the following requirements must be met:

- a. The property must be located in an area zoned for commercial uses.
- b. The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
- c. The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than four (4) feet at any point.
- d. The property owner whose property adjoins the City sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.

(2) Upon reviewing the permit application if it is determined by the Common Council that all of the above requirements have been met, it shall issue the permit. Said permit may be revoked by the Common Council at any time when one (1) or more of the above requirements are not complied with or if he/she determines that the placement of the fixture(s) endangers the safety of the pedestrians who utilize the sidewalks.

(d) **Removal by City for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any City enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.

(e) **Removal by City for Obstruction and Encroachments Located in the City Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if the Common Council determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.

(f) **Failure to Remove Obstruction.**

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

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

## **Sec. 6-2-6 Street Privilege Permit.**

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City may be granted to applicants by the Common Council for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Common Council may request advisory recommendations from the Director of Public Works and Chief of Police prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance.
- (b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the City Clerk a bond not exceeding Twenty Thousand Dollars (\$20,000.00), conditioned that the applicant will indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations.
- (c) **Fee.** The fee for a street privilege permit shall be in the sum of Ten Dollars (\$10.00), plus any actual City costs.
- (d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Mayor, Director of Public Works or Common Council for violation thereof:
  - (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
  - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
  - (4) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

- (5) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Common Council.
- (f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Common Council to do so, it shall be the duty of the City to remove such obstruction and make return of the costs and expenses 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 sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

*State Law Reference:* Sec. 66.0425, Wis. Stats.

## **Sec. 6-2-7 Snow and Ice Removal.**

- (a) **Removal From Sidewalks.** The owner, occupant or person in charge of any parcel or lot which fronts upon or abuts any sidewalk in the business district (defined as Tenth Avenue to Third Avenue East on Bayfield Street) shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases to accumulate on said sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four (4) feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with material to accelerate melting or prevent slipping.
- (b) **Snow and Ice Not to Encroach.** No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the City right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks only onto the public streets. Snow from public sidewalks shall not be stored in any manner which will obstruct or limit vehicular or pedestrian vision, movement or access. The deposit of any snow or ice upon any sidewalk, alley or street of the City, contrary to the provisions of this Section, is a

nuisance; and in addition to the penalty provided for violation of this Section, the City may summarily remove any snow or ice so deposited and cause the cost of said removal to be charged to the owner of the property from which said snow or ice had been removed.

- (c) **Enforcement.** The Director of Public Works is hereby authorized and directed to enforce the provisions of this Section.
- (d) **Continued Violations.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this Section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this Section.
- (e) **Removal of Snow.** If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection (a), the Director of Public Works may cause the removal of said snow and/or ice.
- (f) **Expense.** An account of the expenses incurred by the City to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.0627, Wis. Stats.
- (g) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

*State Law Reference:* Sections 66.0627 and 66.0907, Wis. Stats.

## **Sec. 6-2-8 Terrace Areas.**

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-2(f).
- (b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Common Council or its designee.
- (c) **Responsibility to Maintain.** Every owner of land in the City whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

*Cross-Reference:* Title 6, Chapter 4.

**Sec. 6-2-9 Vaults.**

All vaults and cisterns under sidewalks shall be prohibited.

**Sec. 6-2-10 Requests for Improvements.**

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

**Sec. 6-2-11 Unlawful Dumping on Streets.**

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

**Sec. 6-2-12 Street Numbers.****(a) Duty of Owner or Occupant.**

- (1) The owner or occupant of every primary structure within the City shall procure from the proper municipal official and affix, in a conspicuous place on that portion of the exterior of the building facing the street for which the structure is addressed, the appropriate number thereof according to the terms of this Section.
- (2) If the front of the structure faces a public street, the number shall be located on the exterior of the structure within three (3) feet of the main entrance of the structure.
- (3) If the front of the structure does not face the public street for which the street address is assigned, the number shall be placed on that exterior portion of the structure facing the public street for which the street address is assigned.
- (4) If the structure faces an alley and is not abutting an opened and travelable public street, the street address shall be placed on that side of the exterior of the structure facing the alley. Should a public street abutting such property be opened to travel, the affected structure shall be renumbered to be consistent with the numbering scheme of said opened street.
- (5) The house number or street address shall be readable from a public street, and where applicable, a public alley, by an individual with ordinary eyesight. The owner or occupant of every structure or building required to have a house number or street

address that is not visible from a public street or applicable alley by a person with ordinary eyesight, shall post at the property line of the abutting street or applicable alley, a house number or street address meeting the standards of this Section in addition to the number required in Subsection (a)(1) above.

- (b) **Public Facilities.** Every public facility (i.e., building, park, structure, recreation area) shall be assigned a street address and have that number displayed in accordance with the provisions of this Section.
- (c) **Structures Not Adjacent to Streets.** Structures that cannot have their street numbers readily seen by ordinary eyesight from a public street shall post the street number at the access road to the public street as well as on the exterior of the structure in accordance with Subsection (g) below.
- (d) **Change of Numbers.** Whenever the City shall find that an existing street number is confusing for any reason and that the public interest requires that it be changed, the City shall renumber the lot or parcel and advise the City Clerk thereof. The City Clerk shall thereupon make such change on all municipal records and notify the owner of the new number by certified mail. Within fifteen (15) days of the mailing of such notification, the owner shall display the new number on the building or structure, as provided by this Section.
- (e) **Annexation and Rural Numbering.** Annexed property to the City will conform to the street address numbering system provided for within this Section within fifteen (15) days of adoption of an annexation ordinance.
- (f) **Rural Numbering.** Any address within the corporate limits of the City that presently conforms with a neighborhood rural street numbering system shall be changed to conform with the street address system specified within this Section within fifteen (15) days of the effective date of this Section/ordinance.
- (g) **Street Number to be Displayed.**
  - (1) The physical numbers required by this Section shall be a minimum height of three (3") inches and a minimum width of two (2") inches on a contrasting background. For large commercial and industrial buildings, the City may require numbers of eight (8") inches in height and five (5") inches in width. Numerals are preferred and recommended over written numbers.
  - (2) The street address shall be placed not less than two (2) feet nor more than ten (10) feet above the surface of the ground immediately below the location of the number. For large commercial and industrial buildings the City may permit numbers to be placed not more than fifteen (15) feet above the surface of the ground.
- (h) **County-Provided Address Signs.** Address signs (a.k.a. fire numbers) provided by Bayfield County that are in conformance with the building address numbering system described within this Section and the placement requirements of Subsection (g) are deemed to be in conformance with the requirements of this Section.
- (i) **Assignment of Street Numbers.** The City Clerk shall assign all street numbers within the corporate boundaries of the City of Washburn. Only assigned numbers shall be

displayed on the exterior of buildings. The Public Works Department shall remove any unassigned numbers from the structure and the owner/occupant shall be subject to a forfeiture as provided in Section 1-1-7.

- (j) **Multiple Tenants.** Structures with multiple tenants shall establish, with the City Clerk's approval, one of the following methods of labeling of their structure, a combination of these methods on any one structure shall be prohibited:
- (1) Single street number with occupancy suites.
  - (2) Multiple street number for each occupancy.
- (k) **Numbering System.**
- (1) On all streets running north and south, or designated as north and south streets, odd numbers shall be assigned to those properties lying on the west side of the street (buildings facing east) and the even numbers shall be assigned to those properties lying on the east side of the street (buildings facing west).
  - (2) On all streets running east and west, or designated as east and west streets, even numbers shall be assigned to those properties lying on the south side of the street (buildings facing north) and the odd numbers shall be assigned to those properties lying on the north side of the street (buildings facing south).
- (l) **Bayfield Street Base Line.**
- (1) Bayfield Street between 11th Avenue West and Gary Road shall be the base line (dividing line) between the north and south address numbering system.
  - (2) All those stores, buildings, houses, and structures lying west of Washington Avenue within the first block north and south of the Bayfield Street base line shall be numbered commencing in the series "100", and the next row of blocks shall commence with "200" and so on through all the blocks north to the city limits. In those instances in which a cross street has not been opened, a new "100" series sequence shall start every three hundred and twenty-eight (328) feet or to line up with existing cross streets if extended.
  - (3) All those stores, buildings, houses and structures lying east of Washington Avenue within the first block north of the Bayfield Street base line shall be numbered, commencing in the series "200", and the next row of blocks shall commence with "300", and so through all the blocks north to the city limits. In those instances in which a cross street has not been opened, a new "100" series sequence shall start every three hundred and twenty-eight (328) feet or to line up with existing cross streets if extended.
  - (4) All those stores, buildings, houses, and structures lying east of Washington Avenue within the first block south of the Bayfield Street base line shall be numbered commencing in the series "100", and the next row of blocks shall commence with "200", and so through all the blocks south to the city limits. In those instances in which a cross street has not been opened, a new "100" series sequence shall start every three hundred and twenty-eight (328) feet or to line up with existing cross streets if extended.

- (5) On streets running south of the Bayfield Street base line, the word "South" shall be used in connection with the appropriate street number.
- (m) **Central Avenue Base Line.**
  - (1) Central Avenue between the waters of Chemuamegon Bay and Washington Avenue shall be the base line (dividing line) between the east and west address numbering system.
  - (2) All those stores, buildings, houses and structures lying within the first block east and west of the Central Avenue base line shall be numbered commencing with "1", the next row of blocks shall commence with "100", the third row of blocks shall commence with "200" and so through all the blocks east to the city limits or west to Washington Avenue. In those instances in which a cross street has not been opened, a new "100" series sequence shall start every six hundred thirty (630) feet or to line up with existing cross streets if extended.
  - (3) On streets running east of the Central Avenue base line, the word "East" shall be used in connection with the appropriate street number.
  - (4) On streets running west of the Central Avenue base line, the word "West" shall be used in connection with the appropriate street number.
- (n) **Washington Avenue Base Line.**
  - (1) Washington Avenue between Central Avenue and the corporate limits of the City shall be the base line (dividing line) between the east and west address numbering system.
  - (2) All those stores, buildings, houses and structures lying within the first block west of the Washington Avenue base line shall be numbered commencing with "300", the next row of blocks shall commence "400", and so on through all the blocks west to the city limits. In those instances in which a cross street has not been opened, a new "100" series sequence shall start every six hundred and thirty (630) feet or to line up with existing cross streets if extended.
  - (3) All those stores, buildings, houses and structures lying within the first block east of the Washington Avenue base line shall be numbered commencing with the hundred block series of the intersecting north/south street, the next row of blocks shall commence with the next succeeding hundred block series, and so on through all the blocks east to the city limits. In those instances in which a cross street has not been opened, a new "100" series sequence shall start every four hundred and thirty-three (433) feet or to line up with existing cross streets if extended.
  - (4) On streets running east of the Central Avenue base line, the word "East" shall be used in connection with the appropriate street number.
  - (5) On streets running west of the Central Avenue base line, the word "West" shall be used in connection with the appropriate street number.
- (o) **Angular Streets.** Those streets not extending a true north/south or east/west direction are angular streets. All angular streets shall be designated either an east, west, north or south street and the street numbering system shall correspond to the base line associated with the street designation.

- (p) **Failure to Display Street Number.** If the owner or occupant of any building neglects for twenty (20) days to duly attach and maintain the proper number on the building, the City shall serve him/her a notice requiring him/her to properly number and display the same via certified mail, and if the owner or occupant neglects to do so for ten (10) days after notification, he/she shall be subject to the forfeiture as provided in Sec. 1-1-7 of the Washburn Code of Ordinances.

### Sec. 6-2-13 Obstruction of Public Ditches.

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

### Sec. 6-2-14 Vacation of Streets and Alleys.

- (a) **Statute Adopted.** The provision of Sec. 66.1003, Wis. Stats., relating to the discontinuance of streets and alleys is adopted and incorporated herein as if set forth in full;
- (b) **Duties of City Clerk.** The City Clerk, upon approval of the City Plan Commission, shall draft and maintain application forms and an information package detailing in-house procedures to be followed by the City in regard to discontinuance of streets and alleys, said procedures and application forms to be disbursed to the public upon request.
- (c) **Fees.** Except as authorized hereinafter, fees for vacations shall be One Hundred Dollars (\$100.00) minimum for an alley and Two Hundred Dollars (\$200.00) minimum for a street, or, Five Cents (5¢) per square foot, whichever is greater. The minimum fee shall be submitted with the petition and shall not be refundable. No vacation fees shall apply when the petitioner for said vacation is Bayfield County, the Washburn School District, or WITC.

*State Law Reference:* Sec. 66.1003, Wis. Stats.

### Sec. 6-2-15 Street Weight Limits.

- (a) **Council to Establish.** The Common Council of the City of Washburn may establish weight limitations and restrictions on any City streets and alleys deemed necessary by the Director of Public Works to protect said streets and alleys. Notice of said limitations and restrictions shall be done by erecting signs at the entrances to the City if city wide restrictions are in place or on the specific streets and alleys to which the condition applies,

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to give reasonable notice to users of said streets and alleys that the special weight limits or restrictions are in effect and the nature of said limitations.

- (b) **Compliance With Posted Limits.** No person, firm or corporation shall operate vehicles upon said posted streets and alleys in violation of said posted weight limits or restrictions.
- (c) **Citations.** Citations, where practical, shall be issued against the person, firm, or corporation holding the authority, certificates, licenses, or permits evidencing operating privileges from the Department of Transportation.
- (d) **Costs of Injury to Streets.** Any owner or operator of any vehicle causing or likely to cause injury to such streets and alleys or who is visibly injuring the permanence thereof or the public investment therein, shall immediately suspend operation (except when Sec. 884.20, Wis. Stats., is applicable) or when the vehicle is being operated pursuant to a contract which provides that the governmental unit will be reimbursed for any damage done to the roadway pursuant to Sec. 349.16(1)(c), Wis. Stats.
- (e) **Exempt Vehicles.** This Section shall not apply to vehicles owned by the State, County or Municipality, when said vehicles are being used for the removal, treatment or sanding of snow or ice or when such vehicles are authorized emergency vehicles. Further exemptions from this Section shall be those vehicles carrying commodities or which are used to perform those services that are necessary and reasonable to promote the health, safety and welfare of the public.
- (f) **Penalties for Violation.**
  - (1) Any individual, firm or corporation found to be in violation of this Section shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) plus an amount equal to one cent (1¢) for each pound of total excess load when the total excess load is not over two thousand (2,000) pounds; two cents (2¢) for each pound of total excess load if the excess load is over two thousand (2,000) pounds and not over three thousand (3,000) pounds; three cents (3¢) for each pound of total excess load if the excess is over three thousand (3,000) pounds and not over four thousand (4,000) pounds; five cents (5¢) for each excess pound of the load if the excess is over four thousand (4,000) pounds and not over five thousand (5,000) pounds; seven cents (7¢) for each pound of total excess load if the excess is over five thousand (5,000) pounds.
  - (2) A conviction and fine as set forth in this Section shall in no way limit the rights of the City seeking reimbursements for the actual damages that it incurs to its roadways as well as reimbursement for the costs and expenses incurred by the City, including its reasonable attorney's fee.

## **Sec. 6-2-16 Walkway Permit Requirements.**

- (a) **Policy.** It is City of Washburn policy to provide safe pedestrian and other non-motorized access to properties abutting public streets, suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the public.

- (b) **Walkway Permit Required.** No person, firm, or corporation shall construct, reconstruct, alter, or enlarge any private walkway within the limits of the dedicated portion of any public street under the control and jurisdiction of the City of Washburn without first obtaining a permit therefore as provided in this Section.
- (c) **Application.**
- (1) Application shall be made to the City Clerk-Treasurer on a form provided by the City and shall be accompanied by a drawing accurately depicting the portion of the proposed walkway to be constructed, reconstructed, altered, or enlarged lying within the dedicated portion of the public street, the dimensions thereof, and a statement of the materials to be used. The applicant shall pay the same fee as the fee as set forth in Section 1-3-1 of the City of Washburn Code of Ordinances for a driveway permit application.
  - (2) Upon receipt of the application fee, the City Clerk-Treasurer shall forward the application to the Common Council for decision. The Common Council may request additional information from the applicant before deciding whether to issue the permit. The Common Council shall take into account the policy set forth in Subsection (a) in determining whether or not to issue the permit.
- (d) **Required Provisions of Application and Permit.** The application shall contain a statement that the applicant understands that the permit will be issued upon the conditions set forth below, and all walkway permits shall contain the conditions set forth below:
- (1) The walkway shall be constructed and maintained at the applicant's sole expense and shall be constructed in accordance with the drawings and specifications provided to the City with the application.
  - (2) The City of Washburn reserves the right to make changes, additions, repairs, and relocations within the dedicated portion of the public street at any time, including relocation, reconstruction, widening, and maintaining the street without compensating the owner of such walkway for the damage or destruction of the walkway.
  - (3) The permittee, and the permittee's successors and assigns, agree to indemnify and hold harmless the City of Washburn, its officials, officers, agents, and employees against any claim for personal injury or property damage sustained by reason of the exercise of the permit.
  - (4) The City of Washburn does not assume any responsibility for the removal or clearance of snow, ice, or sleet, or the opening of any windrows of such material upon such portion of the walkway within the dedicated portion of the street.
  - (5) The walkway permitted shall only be used as a walkway and not as a driveway, parking area, or for any other use, and any use of the walkway for any other use is prohibited and may result in revocation of the permit.
- (e) **Additional Conditions Allowed.** Depending on the particular circumstances of the walkway requested, the City of Washburn may impose additional conditions upon the issuance of the walkway permit.

- (f) **Definitions.** As used in this Section, the following words have the meanings set forth below:
- (1) "Street" shall mean any street, alley, or other public right-of-way, whether opened or not, owned by the City of Washburn.
  - (2) "Walkway" shall mean any walkway, stairway, or ramp suitable for pedestrian, bicycle, or other non-motorized travel, not including any sidewalk that is more or less parallel to the street and not including any driveway or other area to be used by any motorized vehicle.

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### Driveways

- 6-3-1 Driveway Permit Required
- 6-3-2 Driveway Location, Design and Construction Requirements

#### Sec. 6-3-1 Driveway Permit Required.

- (a) **Purpose.** For the safety of the general public, the City shall determine the location, size, construction and number of access points to public roadways within the City limits. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the City of Washburn without first obtaining a permit therefor as provided by this Chapter.
- (c) **Application.** Application for such permit shall be made to the City Clerk on a form provided by the City and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. The applicant shall pay a fee of ~~Five~~ <sup>Ten</sup> Dollars (\$~~5.00~~<sup>10.00</sup>). Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the City Clerk shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable City ordinance.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
  - (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the City street, or for any other purpose.
  - (2) The City, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the

- City street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.
- (3) The permittee, his successors or assigns, agrees to indemnify and hold harmless the City of Washburn, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
  - (4) The City does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the City street.

### **Sec. 6-3-2 Driveway Location, Design and Construction Requirements.**

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
  - (1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Common Council, or committee thereof, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
  - (2) **Number.** The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Common Council, or committee thereof, for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.
  - (3) **Island Area.** The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (7).
  - (4) **Drainage.** The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed.
  - (5) **Culverts.** Driveways shall not obstruct or impair drainage in street ditches or roadside areas. Driveway culverts, where required, shall be adequate for surface water

drainage along the street and shall not be less than the equivalent of a 12-inch diameter pipe. The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled in pursuant to the provisions of Subsection (7) hereof.

- (6) **Reconstruction of Sidewalks, Curb and Gutter.** When the construction of a driveway requires the removal of a curb or gutter, or both, the new connection shall be of equivalent acceptable material and the curb return shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway or roadway pavement and the sidewalk, if any, in a neat, workmanlike manner. In the event the driveway construction shall require the replacement, removal, or reconstruction of the sidewalk area, the area formerly occupied by sidewalk may be replaced with an asphalt surface, rather than a concrete surface; however, in such event, the asphalt surface can only extend along the width of the driveway where the sidewalk would otherwise be located, and on either side of said driveway, where the driveway adjoins and meets the sidewalk, the level of the asphalt on the driveway shall be no less than one-fourth (1/4) inch above or more than one-fourth (1/4) inch below the grade of the sidewalk which adjoins either side of said driveway. No other material other than asphalt may be used to replace a sidewalk within the width of said driveway. In the event an existing sidewalk is not to be replaced or repaired when a private driveway or other driveway obtains an asphalt surface, the asphalt surface which adjoins the existing sidewalk which crosses the driveway width shall adjoin said sidewalk and be no more than one-fourth (1/4) inch above, or more than one-fourth (1/4) inch below, the grade of said sidewalk, and in no event shall a paved asphalt surface be placed over an existing sidewalk or cause the grade or level of the driveway to exceed one-fourth (1/4) inch above or below the immediate level of grade and line of the adjoining sidewalk on either side of said driveway. Standard thicknesses of driveway approaches will be six (6) inches thick.
- (7) **Restricted Areas.** The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
- a. The filling or draining shall be to grades approved by the Director of Public Works and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
  - b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.
  - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Director of Public Works.

- (8) **Relocation of Utilities.** Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Common Council necessary before any utility may be relocated and the driveway installed.
  - (9) **Construction Across Sidewalks.** All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements, except as otherwise provided for in Section 6-3-2(a)(6).
  - (10) **Variances.** Any of the above requirements may be varied by the Common Council in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.
- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments:
- (1) **Width of Drive.** No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Common Council in its discretion may permit a driveway of additional width.
  - (2) **Angular Placement of Driveway.** The angle between the center line of the driveway and the curb line shall not be less than 45°.
  - (3) **Island Areas.** Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a City street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the City street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:
- (1) Unless special permission is first received from the Common Council, or committee thereof, a residential single-type driveway shall be no greater than eighteen (18) feet wide at the curb line and fifteen (15) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than twenty-four (24) feet wide at the curb line and eighteen (18) feet wide at the outer or street edge of the sidewalk.
  - (2) **Angular Placement.** The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.

- (d) **Appeal from Permit Refusal.** Any person feeling himself aggrieved by the refusal of the City Clerk to issue a permit for a private driveway may appeal such refusal to the Common Council within twenty (20) days after such refusal to issue such permit is made.
- (e) **Prohibited Driveways.**
- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the City of Washburn except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
  - (2) No driveway shall be closer than fifteen (15) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the City for effective traffic control or for highway signs or signals.
  - (3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
  - (4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
  - (5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.

## Title 6 ► Chapter 4

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### Trees and Shrubs

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#### **Sec. 6-4-1 Statement of Policy and Applicability of Chapter.**

- (a) **Intent and Purpose.** It is the policy of the City of Washburn to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.
- (b) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

#### **Sec. 6-4-2 Definitions.**

Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

- (a) **Person.** "Person" shall mean person, firm, association or corporation.
- (b) **Public Areas.** "Public Areas" includes all public parks and other lands owned, controlled or leased by the City except the terrace areas.
- (c) **Public Trees and Shrubs.** "Public Trees and Shrubs" means all trees and shrubs located or to be planted in or upon public areas.
- (d) **Public Nuisance.** "Public Nuisance" means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (e) **Boulevard or Terrace Areas.** "Boulevard or Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are no sidewalks, the area nine (9) feet from the curb shall be deemed boulevard areas under this Chapter.
- (f) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- (g) **Shrubs.** "Shrubs" shall mean any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (h) **Tree.** "Tree" shall mean any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.
- (i) **Evergreen Tree.** "Evergreen Tree" shall mean any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.
- (j) **Forester.** The Director of Public Works shall serve as the City Forester.

### **Sec. 6-4-3 Authority of City Forester to Enter Private Premises.**

The City Forester or his/her authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.0119, Wis. Stats.

### **Sec. 6-4-4 Interference with the City Forester Prohibited.**

No person shall interfere with the City Forester or his/her authorized representative while they are engaged in carrying out any work or activities authorized by this Chapter.

## Sec. 6-4-5 Abatement of Tree Disease Nuisances.

- (a) **Dutch Elm and Other Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City of Washburn, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.), the Common Council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.
- (b) **Definitions.** As used in this Section, unless otherwise clearly indicated by the context:
- (1) "Public Nuisance" means:
    - a. Dutch Elm disease.
    - b. Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
    - c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
    - d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
    - e. Any other deleterious or fatal tree disease.
    - f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.
    - g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
  - (2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
  - (3) "Person" means person, firm or corporation.
- (c) **Inspection.**
- (1) The City Forester shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. He/she shall also inspect or cause the inspection of any elm tree reported or suspected to be infested with the Dutch Elm disease or any elm bark bearing materials reported or suspected to be infested with elm bark beetles.

- (2) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.
  - (3) The Forester and his/her agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.
- (d) **Abatement of Nuisances; Duty of Forester.**
- (1) The Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which he/she determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
  - (2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he/she shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease, other deleterious tree diseases, or the inspect pests or vectors known to carry such disease fungus.
  - (3) a. When the Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he/she shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he/she can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing before the Common Council, or committee thereof, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.  
b. If, after hearing held pursuant to this Subsection, it shall be determined by the Common Council, or committee thereof, that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this

Section. The Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(e) **Spraying.**

- (1) Whenever the Common Council, upon the recommendation of the City Forester, shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, he/she may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying.
- (3) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection (b) of this Section, the City shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (d)(3).

## **Sec. 6-4-6 Planting of Trees and Shrubs.**

(a) **Planting.**

- (1) The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards and the manner of planting shall be submitted to the City Forester for approval before commencement of such work.
- (2) There shall be a minimum distance of sixteen (16) feet and a recommended distance of twenty-five (25) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) feet wide, planting will not be permitted. Terrace area trees shall be a minimum of twenty-five (25) feet from an intersection.
- (3) Evergreen trees shall not be planted in a terrace area.
- (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.
- (5) Tree grates shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.

- (b) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the Forester may be removed. The Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.

### **Sec. 6-4-7 Trimming.**

- (a) Trees and shrubs standing in or upon any boulevard, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The City Forester may waive the provisions of this Section for newly planted trees if he/she determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (b) The necessity of the pruning may be determined by the City Forester.
- (c) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (d) Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require a permit from the City Forester.

### **Sec. 6-4-8 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.**

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.

- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the City Forester and/or Common Council shall order City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.
- (d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-7 of this Code of Ordinances.

*Cross-Reference:* Section 13-1-90.

## **Sec. 6-4-9 Removal of Trees and Stumps.**

- (a) **Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the City Forester shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the City, or to be injurious to sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The City Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Clerk-Treasurer, who shall thereupon enter such cost as a special charge against the property.
- (b) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.

- (c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the City Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the City Forester, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

### **Sec. 6-4-10 Prohibited Acts.**

- (a) **Damage to Public Trees and Shrubs.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the City Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
- (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
  - (2) Remove, break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
  - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
  - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
  - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
  - (6) Cause or encourage any fire or burning near or around any tree.
- (b) **Separate Offense.** The commission of any offense prohibited by this Section on, against, in, through, or at each tree or shrub is a separate offense.
- (c) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the City Forester.
- (d) **Interference With Forester.** No person shall:
- (1) Interfere with or prevent any acts of the Forester or his/her agents or employees while they are engaged in the performance of duties imposed by this Section.

- (2) Refuse to permit the Forester or his/her duly authorized representative to enter upon his/her premises at reasonable times to exercise the duties imposed by this Section.
- (e) **Refusal to Abate Nuisance.** Permits any public nuisance to remain on any premises owned or controlled by him/her when ordered by the Forester to abate such nuisance.

### **Sec. 6-4-11 Appeal from Determinations or Orders.**

Any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances, to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Clerk-Treasurer.

### **Sec. 6-4-12 Penalties.**

Any person committing any prohibited act as provided in Section 6-4-10 is subject to penalties as follows:

- (a) A forfeiture of not less than One Hundred Dollars (\$100.00) or more than Ten Thousand Dollars (\$10,000.00).
- (b) Restitution for each tree removed, injured, or destroyed equal to the fair market value, stumpage value, or the cost of restoration or replacement of the tree or shrub removed, injured, or destroyed, whichever is greater.
- (c) In addition to the award under Subsection (b) above, any economic damages resulting from the removal, injury, or destruction of a tree or shrub.
- (d) The costs of each of the following, as applicable in the particular case:
- (1) Repair of damage to, or cleanup on, the land on which the tree or shrub was removed, injured, or destroyed.
  - (2) Removal of slash from agricultural land, waterways, highways, private roads, trails or other sites where the slash would interfere with reforestation or replanting.
  - (3) Determining the fair market value, the stumpage value, and the volume of the trees or shrubs that were removed, injured, or destroyed, and determining the cost of their restoration or replacement.
  - (4) Determining the location of property boundaries necessary for determining whether a violation occurred.

- (5) Preparing forest management, reforestation, and replanting plans.
- (6) Reforesting or replanting.

**Sec. 6-4-13 Adoption of State Statutes.**

Sections 27.09 and 86.03, Wis. Stats., are hereby adopted and incorporated herein by reference.

*State Law Reference:* Sections 27.09 and 86.03, Wis. Stats.