

**TITLE 6**

Public Works

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**CHAPTER 1**

Official Map; Grades

- 6-1-1 Official Map
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**SEC. 6-1-1 OFFICIAL MAP.**

- (a) **Intent.** It is the intent of the Common Council to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to insure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds and storm water drainage; and to facilitate the further subdivision of larger tracts into smaller parcels of land.
- (b) **Official Map.** The Official Map shall show the location and extent of all platted and existing streets, highways, parkways, parks and playgrounds within the corporate limits of the City of Cedarburg as heretofore laid out, adopted and established by law. There is hereby established, as the Official Map of the City of Cedarburg, the Map which is herein incorporated by reference and made a part of this Section bearing the date of May 11, 1987. This Map is hereby designated as the "Official Map of the City of Cedarburg," and all notations, references and other information shown thereon shall be as much a part of this Section as though the matters and information thereon were fully described herein.
- (c) **Changes and Additions.**
  - (1) The Common Council may change or add to the Official Map so as to establish the exterior lines of; widen; narrow; extend; or close any platted, existing, proposed, or planned streets, highways, parkways, parks or playgrounds. The Official Map may also include at the direction of the Common Council the location of railroad rights-of-way, waterways, public transit facilities and drainage ways.
  - (2) The Common Council shall refer any change or addition to the Official Map to the City Plan Commission for review and report thereon prior to adoption. The City Plan

Commission shall report their recommendation to the Common Council within sixty (60) days. In the event the Plan Commission fails to do so, it forfeits the right to further suspend action.

- (3) Changes and additions for the locating, widening or closing, or the approval of the locating, widening or closing of streets, highways, parkways, parks or playgrounds by the City under provisions of law other than this Section shall be deemed to be a change or addition to the Official Map.
  - (4) A public hearing of parties in interest and citizens before the Common Council shall be required before any changes or additions to the Official Map are effective. Notice of the Public hearing shall be published as a Class 2 notice under Chapter 985, Wis. Stats.
  - (5) Changes and additions made by duly approved subdivision plats shall not require the public hearing if the changes or additions do not affect any land outside the area being platted.
- (d) **Building Permits.**
- (1) For the purpose of preserving the integrity of the Official Map, a building permit shall be required for any structure or part thereof that shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered. No permit shall hereafter be issued for any building in the bed of any existing or proposed street, highway or parkway shown on the Official Map unless a variance is granted. No for the erection of any building shall be issued unless a street, highway or parkway giving access to such proposed structure has been duly placed on this Map.
  - (2) The Building Inspector may require each applicant for a building permit to submit a plan, prepared and certified by a registered land surveyor, showing accurately the location of any proposed building with reference to any street, highway or parkway is shown on the Official Map.
- (e) **Municipal Improvements.** No public sewer or other municipal street utility or improvement shall be constructed in any street, highway or parkway within the corporate limits of the City of Cedarburg until such street, highway or parkway is duly placed on the Official Map.
- (f) **Appeals.** The Board of Appeals shall have the power to review any administrative decision of the City Building Inspector to deny a permit for the erection of a structure under this Section and to grant relief from the requirements of this Section under the provisions of Sections 62.23(6)(d), (f) and (g), Wis. Stats.
- (g) **Certified Copy of Map.** There shall be a certified copy of the Official Map described in Subsection (b) above. The certified copy shall be kept in the office of the City Clerk and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Section and shall show the date of adoption of this Section and shall be signed by the Mayor and countersigned by the City Clerk. Thereafter no change or addition to such Official Map shall become effective until it shall have been

indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Mayor and countersigned by the City Clerk.

- (h) **Map to be Filed with Register of Deeds.** The City Clerk shall be responsible immediately upon adoption of the Official Map or any amendment thereto for recording a true copy of the amended Official Map with the Register of Deeds of the County of Ozaukee, Wisconsin.
- (i) **Enforcement.**
  - (1) It shall be the duty of the Zoning Administrator, Director of Engineering and Public Works, City Engineer and the Chief of Police to enforce the provisions of this Section.
  - (2) No damages shall be allowed for the taking by any governmental agency for street, highway and parkway purposes any building erected in violation of this Section.

#### **SEC. 6-1-2 ESTABLISHMENT OF GRADES.**

- (a) **Grades to be Established.** Where the approval of a subdivision is not approved, the grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council and the same recorded by the City Engineer in his office. Where a new subdivision is being approved, grades are approved as part of the final plat approval. 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 resolution, 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, in accordance with Title 3, Chapter 2, of this Code of Ordinances. Before such construction is commenced by the owners of the abutting lots or parcels of land, the City Engineer 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. 6-1-3 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 Cedarburg by any means whatsoever unless authorized or instructed to do so by the City Engineer, after approval by the Common Council following public hearing. All such alterations of grade shall be recorded in the office of the City Engineer, after hearing and approval by the Common Council.

#### **SEC. 6-1-4 REGULATION OF UNDERGROUND UTILITIES.**

- (a) **Elevation.** The grade or elevation of all underground construction shall be pursuant to standards adopted by the City Engineer.
- (b) **Approval of Location.** The location of any and all such underground construction must have the approval of the City Engineer/Director of Engineering and Public Works.
- (c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the City Engineer/Director of Engineer and Public Works before construction can begin.
- (d) **Inspection.** On request of the City Engineer/Director of Engineering and Public Works, the utility company must provide opportunity for him to check any construction before it may be covered pursuant to City inspection policies. All public works improvements shall comply with the requirements of the City Engineering Services Policy, which is incorporated by reference herein, with respect to construction inspection services.
- (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, or of the storm sewer, at the election of the City Engineer/Director of Engineering and Public Works and in accordance with his directions and specifications.
- (f) **Establishment of Grade.** At the request of the utility company, the City Engineer/Director of Engineering and Public Works shall, at the City's expense, give the utility company an established grade, if available, 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 City Engineer/Director of Engineering and Public Works 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 travel way, 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 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.
- (j) **Digger's Hotline.** The contractor planning to make excavations shall contact Digger's Hotline a minimum of three (3) days prior to the planned start of excavating.

**SEC. 6-1-5 PROHIBITING INTERFERENCE WITH DRAINAGE AND UTILITY EASEMENTS** (Ord. 91-40)

- (a) Whereas, in order to promote the safety of the public and to maximize the efficiency of the City public works department and Cedarburg Light and Water Utility and this ability to serve the public, it is necessary that the above ground drainage facilities throughout the City remain unimpeded and that the City personnel and equipment have unobstructed access to the real property upon which the City has been granted various types of easements. This ordinance shall be passed in order to promote such purposes.
- (b) No person shall cause any interference with any real property to which the City has been granted an easement for drainage purposes. For purposes of this subsection (b) "interference" shall include, without limitation, grade alteration; erection of any permanent or temporary structure including, without limitation, garages, buildings, sheds, fences, kennels, barns, antennas and satellite dishes; storage of firewood, trailers, vehicles, building materials or any other personal property; planting of shrubs, flowers gardens, trees or any other foliage; and any other activity which interferes with the purpose of such easement or impedes or prohibits the free access of the City to such real property or City-owned appurtenances thereon.
- (c) No person shall cause any interference with any real property to which the City has been granted an easement for access, utility construction and maintenance or any other lawful purpose, except drainage. For purposes of this subsection (c) "interference" shall include, without limitation, major grade alteration; erection of any permanent structure such as garages, or barns, and any other activity which interferes with the purpose of such easement or permanently impedes or prohibits the free access of the City to such real property or City-owned appurtenances thereon.
- (d) Upon request by a City Officer, the City Attorney shall notify any party violating this ordinance of the nature of the violation and shall instruct such party to remove the item(s) causing the interference with the real property to which the City has been granted an easement within thirty (30) days of the giving of the notification. The City police and/or building inspector are hereby authorized to issue citations for violations of this ordinance.
- (e) The City is hereby authorized to remove the item(s) causing the interference with the real property to which the City has been granted an easement after notification pursuant to subsection (d) hereof to the owner of the interfering item(s) if the ownership may be readily ascertained. In the event that the ownership of the interfering item(s) cannot be readily ascertained or in the event of an emergency which, in the opinion of City personnel, requires immediate attention, the City may remove any item(s) causing interference with the real property to which the City has been granted an easement without the requirement of compliance with the notice provisions of Section 2 hereof. The City shall be reimbursed for all costs of removal of any items causing interference with the real property to which the City has been granted an easement by the owner of the interfering item(s).

## CHAPTER 2

### Streets and Sidewalks

6-2-1	Removal of Rubbish and Dirt From Sidewalks
6-2-2	Construction and Repair of Sidewalks and Curb and Gutter
6-2-3	Excavations of Streets, Alleys, Public Ways and Grounds
6-2-4	Regulations Governing Excavations and Openings
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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 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 Public Works Superintendent or Building Inspector, the Public Works Superintendent or Building Inspector 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. 66.60(16), 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 AND CURB AND GUTTER.**

- (a) **Council May Order.** The Board of Public Works, in the case of reconstruction, or the Plan Commission, in the case of a new subdivision or other new construction, may determine that sidewalks, curb and gutter shall be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the City. The Board of Public Works may determine or change the width or grade of any sidewalk. (Ord. 90-17)
- (b) **Owner to Construct.**
  - (1) It shall be the duty of the abutting owner to construct new curb and gutter, or sidewalks along or upon any street, alley or highway in the City of Cedarburg and to reimburse the City in accordance with Title 3, Chapter 2, of this Code of Ordinances. Such costs shall include expenditures for engineering and administrative fees,

- excavations, gravel and driveway approaches. (Ord. 90-17)
- (2) Whenever the Board of Public Works shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the City, it shall proceed according to Sec. 66.615 and/or 66.22, Wis. Stats. and the improvements shall be assessed to abutting property owners pursuant to Sec. 66.60, Wis. Stats. (Ord. 90-17)
- (3) Sidewalks shall be located in such places as designated by the Board of Public Works, upon the recommendation of the Plan Commission and/or Director of Engineering and Public Works. No person shall remove any sidewalk without the permission of the Board of Public Works. (Ord. 90-17)
- (c) **Sidewalk Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the City unless he is under contract with the City to do such work or has obtained authorization therefor from the Director of Engineering and Public Works or his designee at least three (3) days before work is proposed to be undertaken. No fee shall be charged for such permits.
- (d) **Specifications.** Sidewalks and curb and gutter shall be constructed in accordance with the specifications adopted by the Board of Public Works, on file with the City Engineer, unless the City Engineer authorizes a different standard because of the unique characteristics of the site.
- (e) **Construction of Extra Width Sidewalks.** Any person wishing to have the sidewalk in front of nonresidential premises wider than the established width may make written application therefor to the City Engineer. The City Engineer may cause the sidewalk to be built to the edge of the premises and shall notify the applicant of the extra cost and shall note such extra cost on the application and shall file such with the City Clerk. If the amount of such extra cost is not paid within thirty (30) days after notice by the City Engineer, the amount thereof shall be a lien against the premises and shall be inserted by the City Clerk in the tax roll and collected as other taxes or may be sued for on behalf of the City.
- (f) **Contractor's Guarantee.** The contractor shall construct the sidewalk in such a manner that no settlement, cracks or any other defects due to bad material or faulty workmanship shall appear therein for a period of one (1) year from and after the completion of the work and shall furnish the City of Cedarburg where sidewalks are built a guarantee in writing. If the walk fails to conform to this requirement, the contractor, at its sole cost and expense, shall promptly repair it or, if necessary, reconstruct it according to order of the City Engineer.
- (g) **Repair of Defective Sidewalks, Streets, Curbs, Etc.** (Ord. 90-17)
- (1) Inspection. The Director of Engineering and Public Works shall cause frequent inspections to be made of all the streets, sidewalks, curb and gutter, pavements, bridges and other public ways in the City. He shall report any defects to the Board of Public Works at its next regular or special meeting. The Board of Public Works shall then take whatever action it feels is appropriate.
- (2) Dangerous Conditions. Notwithstanding the provisions of Subsection (1), when the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed the sum of One Hundred Dollars (\$100.00), the repair may be immediately made

without such report.

- (3) **Cost of Repairs.** The cost of all sidewalk repairs under this Section, except to the extent damage is caused by the growth of trees in the parkway, or is caused due to improper initial grade setting, shall be charged to the property benefited thereby. Repairs required by parkway tree growth or improperly initial grade setting and all other repairs to public facilities shall be paid entirely out of the general fund of the City. Driveway approach repairs specifically requested by the abutting property owner shall be charged to the property benefited thereby. (Ord. 90-17)
- (h) **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 which 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. All costs associated with removing an illegal sidewalk constructed by the fronting property owner shall be assessed to the fronting property owner, together with the costs for new sidewalks. (Ord. 90-17)
- (i) **Special District Sidewalk Requirements.** (Ord. 90-17)
  - (1) There shall be constructed on both sides of all streets which are not in an M-1 Limited Industrial District, M-2 General Industrial District or PDO Planned Public Development Overlay District, concrete sidewalks and driveway approaches, which are backfilled, graded and paved and parkways which are seeded in accordance with the specifications as set forth by the City Engineer. Sidewalks shall be constructed on at least one side in an M-1 Limited Industrial District and M-2 General Industrial District. Sidewalks may be required to be located on both sides of the street in those cases deemed warranted by the Plan Commission. The Plan Commission shall determine the sidewalk locations based on safety, serviceability and other land use planning considerations.
  - (2) The sidewalk requirement of Section 6-2-2 shall not apply to properties along streets in RM-2 zoning districts wherein said property is owned by a condominium development association and the condominium development association fronts both sides of the subject street and wherein the requirement of the construction of sidewalks on both sides of a street in said condominium area would cause a hardship upon the owners of said condominiums. In such a case, the Plan Commission may, by a three-fourths (3/4) vote, recommend to the Common Council that the requirements for installation of sidewalks on both sides of the street be waived and that the Council only require the installation of a sidewalk on one (1) side of the street. The Common Council, to approve such a proposal, shall determine by a three-fourths (3/4) vote, on the basis of hardship, to waive the installation of sidewalks on one (1) side of the street only.
  - (3) The sidewalk requirements of Section 6-2-2 shall not apply to properties along streets in RS-1, RS-7 and RS-8 zoning districts except in those instances in which the Plan Commission recommends to the Council and the Council approves on a case-by-case basis the need for sidewalk. In such a case, the Plan Commission may, by

three-fourths (3/4) vote, recommend to the Common Council that the requirements for installation of sidewalks on both sides of the street be waived and that the Common Council not require the installation of a sidewalk on either side of the street. The Common Council, to approve such a proposal, shall determine by a three-fourths (3/4) vote, to waive the installation of sidewalks on one (1) side of the street only.

- (4) Except as otherwise provided in this section the sidewalk requirements of Section 6-2-2 shall apply to arterial streets, regardless of zoning district classification. In those cases where sidewalks on both sides of arterial streets are impractical due to unique site conditions, existing grades or structural and environmental features that would be unduly disrupted, the board of Public Works may, by three-fourths (3/4) vote, recommend to the Common Council that the requirements for installation of sidewalks on both sides of said arterial street be waived. The Common Council, to approve such a proposal, shall determine by a three-fourth (3/4) vote, to waive the installation of sidewalks one (1) side of the street only.
  - (5) The cost of the improvements are to be assessed pursuant to the City's special assessment policies and ordinances.
- (j) **Curb and Gutter Required.**
- (1) All streets within the City of Cedarburg shall have concrete curb and gutter in accordance with the specifications as set forth by the City Engineer, except in RS-7 and RS-8 zoning districts where the Plan Commission shall recommend to the Council on a case-by-case basis the need for curb and gutter, except along arterial streets where curb and gutter shall be required.
  - (2) Installation of curb and gutter shall require concurrent construction of adjacent sidewalks, unless otherwise determined by the Board of Public Works. (Ord. 90-17)

State Law Reference: Sec. 66.615, Wis. Stats.

### **SEC. 6-2-3 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS.**

- (a) **Permit Required.** No person, partnership or corporation, or their agents or employees or contractors, shall excavate in or disturb the surface of any public street, public alley, public way, public ground, public sidewalk or City-owned easement within the City of Cedarburg without a permit from the City Engineer.
- (b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the City Engineer, 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 City Engineer shall determine if sufficient information is submitted.
- (c) **Exception.** The provisions of this Section shall not apply to City excavation work done under the direction of the Director of Engineering and Public Works.
- (d) **Validity of Permit.** Permits shall be valid for a period of ninety (90) days from the date of

approval. Any person or utility who has been granted a permit to excavate in the public right-of-way or to disturb the same shall perform such work in such manner and in such time as the Director of Engineering and Public Works shall direct and shall restore the surface of the public right-of-way pursuant to the requirements of this Section and Section 6-2-4.

- (e) **Excavations by Public Utilities.** Any public utility having a franchise to lay pipe in or near the public way shall, before excavation or disturbing any portion of the public right-of-way, give written notice and present plans thereof to the City Engineer in such form as the Director of Engineering and Public Works may prescribe.
- (f) **City Standards.** All street work shall be performed in accordance with the current standard specifications for street openings. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage. All provisions of City Policy PR-6 “Protection of Public Trees During Construction” shall apply.
- (g) **Permit Fee and Deposit.**
  - (1) The following fees shall be submitted with applications for permits under this Section:

a. Opening street	\$250.00
b. Opening curb, alleyway, walkway or parkway	\$150.00
c. Perform work or labor or deposit excavation or construction materials within a public right-of-way	\$ 50.00

(Ord. 92-54) (Ord. 2006-39)
  - (2) The sum of One Hundred Dollars (\$100.00) of the fees deposited under a. and b. hereof shall be refunded upon completion of the restoration of the disturbed surface to the satisfaction of the City Engineer.
- (h) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the City Engineer satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance in an amount prescribed by the City's Schedule of Insurance Requirements. The policy shall name the City of Cedarburg as the third-party insured and shall be subject to approval by the City Attorney.
- (i) **Bond.**
  - (1) Before a permit for excavating or opening any street or public way may be issued, the applicant shall sign a statement that he will indemnify and save the City of Cedarburg and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he 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 may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the City Engineer for a period of one (1) year, and that he will pay all fines of forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying 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 statement 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.
- (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 City 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 therefore 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 the amount of Ten Thousand Dollars (\$10,000.00).
  - (4) Whenever the City Engineer shall find that any such work has become defective within one (1) year of the date of completion, he shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the City Engineer 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 at the start of the project, which shall be conditioned as specified above and in the amount equal to one hundred percent (100%) of the project bid amount.

#### **SEC. 6-2-4 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.**

- (a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between December 1<sup>st</sup> and April 1<sup>st</sup> except where it is determined by the City Engineer to be an emergency excavation or authorized Public Works Department projects.
- (b) **Notification to Property Owners.** Any person who is granted a permit hereunder shall notify all property owners identified by the City Engineer or his designate as affected by this excavation. The notice shall be given in writing at least forty-eight (48) hours in advance of such excavation, except in emergencies as identified by the City Engineer, in which case the City Engineer may waive this requirement. 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 forty-eight (48) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Sec. 6-2-4(i).
- (c) **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 Engineer, 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 City Engineer, 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 employees of any necessary precaution against injury or damage to persons, vehicles or property.
  - (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 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 workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Police Department 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).
- (d) **Standard Specifications.** Pavement removal, excavations, backfilling and pavement replacement shall be performed pursuant to standard specifications on file with the City Engineer.
  - (e) **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 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.
  - (f) **Excavation in New Streets Limited.** Whenever the Board of Public Works 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. The City Engineer 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, prior to advertising for bids for such work, and that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the

opinion of the City Engineer, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street parkways.

#### **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 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) Public utility encroachments duly authorized by State Law or by the Common Council.
  - (2) Goods, wares, merchandise or fixtures being loaded or unloaded which do not obstruct the width of a sidewalk by more than three (3) feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than three (3) hours.
  - (3) Temporary encroachments or obstructions authorized by permit under Section 6-2-6 of this Section pursuant to Sec. 66.045, Wis. Stats.
  - (4) Building materials for the period authorized by the Building Inspector and City Engineer 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.
  - (5) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.
- (c) **Issuance of Permit.**
  - (1) The Building Inspector is authorized to issue a temporary 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 five (5) feet at any point.
    - d. The property owner shall provide the City with proof of liability insurance coverage. The insurance coverage shall be an amount prescribed by the City's Schedule of Insurance Requirements, and the policy shall specifically state that it includes coverage for the fixtures located on the City sidewalks. In addition, the City shall be identified as a third-party insured.
    - e. The fixture(s) shall not be for sale nor shall the fixture(s) be used for the sale of merchandise. Specifically excluded are all forms of vending machines,

- vendors' carts or tables, etc.
- f. 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 Building Inspector that all of the above requirements have been met, he shall issue the permit. Said permit may be revoked by the Building Inspector or any City law enforcement officer ("City enforcement officials") at any time when one (1) or more of the above requirements are not complied with or if he 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 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 any City enforcement official determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he 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 thirty (30) days.
- (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, any City enforcement official 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.

Cross Reference: Section 7-9-1.

**SEC. 6-2-6 STREET PRIVILEGE PERMIT.** (Ord. 2004-04)

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways may be granted to applicants by the Police Chief for the purpose of moving any building or

structure or temporarily placing a dumpster, scaffolding, building materials, soil piles, mulch deliveries or other materials necessary in and about the construction, landscaping, 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 Police Chief shall request advisory recommendations from the City Engineer prior to issuance of the permit. City officials may attach conditions to the permit. The Police Department and Department of Public Works shall be notified of the issuance of a street privilege permit.

- (b) **Bond.** No street privilege permit shall be issued for moving building structures over City streets until the applicant shall execute and file with the City Clerk a bond in the amount of Ten Thousand Dollars (\$10,000.00), 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 moving operations.
- (c) **Fee.** The fee for a street privilege permit shall be Fifty Dollars (\$50.00), 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 Police Chief 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) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Police Chief and City Engineer, shall continue during all hours of the day and night.
  - (5) 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.
  - (6) Buildings shall be moved only in accordance with the route prescribed by the City Engineer and Police Chief.
  - (7) 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 are valid for seven (7) days from start date unless

extended by the Police Chief in consultation with the City Engineer.

- (f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk, street or alley shall neglect to remove such obstruction within twenty-four (24) hours after such notice from the Police Chief or his designee to do so, it shall be the duty of the Police Chief or his designee 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, street or alley and such sum shall be levied and collected as other special taxes against real estate. (Ord. 2004-04)
- (g) **Exemptions.** City of Cedarburg municipal crews, Cedarburg Light and Water, and private contractors working for the City of Cedarburg are exempt from the requirements of this section.

State Law Reference: Sec. 66.045, Wis. Stats.

Cross Reference: Sections 6-2-11, 7-9-1 and 7-13-1.

#### **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 adjoins any sidewalk 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 sand and/or salt to permit safe travel by pedestrians.
- (b) **Notice and Removal of Snow from Sidewalks.** 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 Engineering and Public Works or City law enforcement officers shall take the following action:
- (1) Hazardous Conditions. If the Director of Engineering and Public Works or City law enforcement officer determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed within two (2) hours from the delivery of the notice. In the event the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the Director of Engineering and Public Works or police officer shall immediately cause the removal of the snow and/or ice. The Director of Engineering and Public Works or police officer shall send a written notice to the last-known address of the property

owner notifying him that a hazardous condition existed which required immediately abatement.

- (2) **Non-Hazardous Conditions.** If the owner, occupant or person in charge of the subject parcel or lot fails to remove the snow within the time period established in Subsection (a), the Director of Engineering and Public Works or police officer shall cause the issuance of a written notice to said owner, occupant or person in charge of the subject parcel or lot directing the responsible person (as defined) to remove said snow and ice no later than 12:00 Noon of the day following the issuance of said notice. The written notice shall be hand delivered when possible or mailed to the last-known address of the owner of the subject property as identified on the records in the City Clerk's office.
  - (3) **Snow and Ice Not to Encroach.** No person shall push, blow, 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 parcel 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 onto the public streets
- (c) **Enforcement.** The Director of Engineering and Public Works, his designees and all sworn police officers are 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) **Abatement After Notice.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (b)(1) and (2) after receiving a written notice shall result in the Director of Engineering and Public Works causing 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. 66.615(5), Wis. Stats.
  - (g) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation who 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 66.60(16) and 66.615(3)(f) and (5), Wis. Stats.

## **SEC. 6-2-8 PARKWAY AREAS.**

- (a) **Definition.** The definition of "parkway" shall be as defined in Section 6-4-2(e).
- (b) **Noxious Weeds; Paving.** All that part of the parkway 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 parkway is required to maintain, or have maintained by his 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.
- (e) **Injuring Grass Plots, Etc. Prohibited.** No person shall injure a grass plot, flower bed, tree, shrub, lamppost, signpost or street lamp within the public right-of-way
- (e) **Canopies, Etc., Prohibited.** No canopy, awning or any portion of any building or any structure of any kind shall be erected or maintained over, under or upon any sidewalk or pedestrian way without written permission of the Plan Commission.

Cross Reference: Title 6, Chapter 4.

#### **SEC. 6-2-9 VAULTS.**

All vaults and cisterns under sidewalks shall be prohibited.

#### **SEC. 6-2-10 DOWNSPOUTS AND EAVES OF BUILDINGS NOT TO DRAIN ON SIDEWALKS.**

No downspouts from any building shall terminate on or upon, or in such position that the contents of such spout be cast upon or flow back or over any public sidewalk in the City. When the eaves of a building extend over or are so constructed that water may fall therefrom or run back upon any public sidewalk, such eaves shall be so protected by proper spouts or otherwise that no water shall fall or drain therefrom or run back upon or over any public sidewalk. The owner or owners of any building and the officers of any association or corporation owning any building on which any spouts or the eaves thereof shall be maintained contrary to this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

#### **SEC. 6-2-11 SALE OR DISPLAY OF MERCHANDISE PROHIBITED; EVENT VENDING PERMIT.**

- (a) **Street Sales Prohibited Except by Permit.** No person shall display, sell or offer to sell on any street, sidewalk, alley or other public place within the City any goods, wares, foodstuffs or anything of value or service of any kind by putting up a booth or stopping a vehicle or person on foot or in any other manner attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a special event vending

permit from the City Clerk. A special event is a city-wide event such as Maxwell Street Days and Ridikulous Days. Sponsoring organizations may apply as agent for their members obtaining a group permit for a particular special event. (Ord. 90-21)

(b) **Procedure.**

- (1) Application for a special event vending permit to be conducted on public street rights-of-way shall be filed with the City clerk and shall contain such information as the City Clerk may require. The license shall cover a period of no more than four (4) consecutive days. A separate permit shall be required for each special event. Licenses shall be signed by the City Clerk. Licenses applied for by individuals shall be conspicuously displayed at the place where such sales are being made. The permit shall set forth the exact days on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. Applications for group permits shall include a complete list of sponsors and participants at the time of making application. (Ord. 90-21)
- (2) The City Clerk shall review the application and either deny the permit, approve the permit or approve the permit conditionally. There shall be a Ten Dollar (\$10.00) fee for such permit. (Ord. 90-21) (Ord. 92-20) (Ord. 93-32)

(c) **Conditions of License.** In addition to any other conditions imposed by the Common Council, all permittees shall fully comply with the following requirements:

- (1) Liability Insurance. To hold a valid permit, the vendor must have in force adequate liability insurance. Adequate liability insurance is liability insurance holding the City and its employees and agents harmless and to indemnify and defend the City, its employees and agents against all claims, liability, loss, damage or expense incurred by the City with adequate liability policy limits on account of any damage caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform this condition of the permit, the applicant shall furnish a Certificate of Insurance in an amount prescribed in the City's Schedule of Insurance Requirements evidencing the existence of comprehensive general liability insurance (including contractual liability insurance with the City being named as an additional insured). The Certificate of Insurance shall provide thirty (30) days' written notice to the City upon cancellation, or nonrenewal or material change in the policy. Proof of insurance shall be submitted to the City Clerk a minimum of seven (7) days before the start of the event.
- (2) Cooperation with Law Enforcement Officials. To protect the public health and safety, the permittee shall coordinate with the Chief of Police the location of all events under the permit. Street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the Chief of Police for his review and approval a minimum of seven (7) days before the start of the event.
- (3) Clean-up. The permittee shall be fully responsible for all necessary cleanup associated with the licensed event.
- (4) Compliance with Other Regulations. The permittee shall comply with all applicable state and county regulations governing health and sanitation for establishments, if

applicable, and any other applicable City regulations, including, but not limited to, regulations pertaining to the issuance of Special Class "B" Fermented Malt Beverage Licenses.

#### **SEC. 6-2-12 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 Board of Public Works on or before September 1st to be considered for installation in the following year.

#### **SEC. 6-2-13 UNIFORM STREET ADDRESS SYSTEM.**

- (a) **System Established.** There is hereby established a uniform system of numbering properties fronting on all streets, highways and rights-of-way in the City of Cedarburg, and all existing residences and places of business and all residences and places of business which are hereafter constructed shall be numbered in accordance with the provisions of this Section.
- (b) **Base Lines.** (Ord. 92-30)
  - (1) Base lines, as recommended for a uniform City and Town system, shall be used for determining the numbering in the City and Town of Cedarburg. The east-west base line, being Pioneer Road, as recommended, shall be used for numbering along all streets running north and south. This base line shall be a continuation of the east-west base line used in the Town of Cedarburg and shall be the south bottom line of Sections 31 to 35 inclusive. Its numerical designation shall be N. 100. All properties immediately north of and facing the east-west base line, and south of the east-west base line shall carry a number indicating its position following the Mequon numbering system. A north-south base line, as recommended, shall be used for numbering along all streets running in a westerly direction. This base line shall be the eastern boundaries of the Town of Cedarburg, Sections 2, 11, 14, 23, 26, 35 and its numerical designation shall be W. 4300.
  - (2) Each property north of the east-west base line and facing a street running in a northerly direction shall carry an address indicating its position west of the north-south base line and its position north of the east-wide line.
  - (3) Each property west of the north-south base line and facing a street running in a westerly direction shall carry an address indicating its position north of the east-west base line and its position west of the north-south base line, except for those properties adjacent to and facing the east-west base line.
  - (4) Properties on diagonal or curvilinear streets shall be numbered the same as, or similar to, properties on northerly or southerly streets if the diagonal or curvilinear streets run more from the north to the south. The same shall hold for diagonal or curvilinear streets which run more from the east to the west in that properties on such streets shall be numbered the same as, or similar to, properties on westerly streets.
  - (5) Where the general direction of the diagonal or curvilinear street has a deviation of

exactly forty-five (45) degrees, the direction of the street shall be considered as being northerly.

- (c) **Rectangular Blocks.** A system of invisible rectangular blocks shall be established as a control grid in the following manner in conformity with the recommended uniform Town of Cedarburg address system:
- (1) The established section lines shall form a basis for the block system and in a westerly direction from the eastern boundary of the Town of Cedarburg, Sections 2, 11, 14, 23, 26 and 35 shall be divided into seventeen (17) blocks each; Sections 3, 10, 15, 22, 27 and 34 shall be divided into sixteen (16) blocks each; Sections 4, 9, 16, 21, 28 and 33 shall be divided into fifteen (15) blocks each; Sections 5, 8, 17, 20, 29 and 32 shall be divided into fifteen (15) blocks each; Sections 6, 7, 18, 19, 30 and 31 shall be divided into seventeen (17) blocks each. These invisible block lines shall have numerical designations of from 4300 to the east line to 12300 at the west line.
  - (2) In a northerly direction from the east-west base line, the numerical designation shall be divided into four (4) equal blocks each. These invisible block lines shall have numerical designations of from N. 100, the base line which is Pioneer Road, to No. 2500 at the north Town of Cedarburg line.
  - (3) In a southerly direction from the east-west base line, the numerical designation shall be a continuation of the Mequon numbering system.
- (d) **Block Numbers.**
- (1) One hundred numbers shall be assigned to each invisible block, regardless of discrepancies in block sizes. Properties on the north and east sides of streets shall bear even numbers and properties on the south and west sides of streets shall bear odd numbers.
  - (2) The number assigned to each property shall be composed of two (2) parts. The first part, or street designation, shall be composed of a directional letter, "N" or "W," followed by the number of the appropriate block line expressed by a multiple of ten and represented by two (2) or three (3) digits. (Ord. 92-30)
  - (3) The second part of the property number, the block and house designation, shall be composed of a directional letter followed by the number of the appropriate block line plus two (2) additional digits indicating the relative position of the property in the block.
  - (4) For a block which lies south of the east-west base line, the designation shall be a continuation of the Mequon numbering system.
  - (5) Properties and street intersections contained within any block shall bear numbers and directional letters related to the point of intersection of the block boundary lines stipulated in Subsections (b) and (c) above.
- (e) **Property Number.** The point from which any property shall be assigned its proper number shall be determined as follows:
- (1) Where land has been subdivided or platted into lots, the center point of the frontage line of each parcel shall be the point of determination.
  - (2) In cases of farm residences or other residences of business places situated on large acreage or away from other development, the point of determination shall be the

intersection of the centerline of the principal driveway with the street or highway right-of-way line.

- (3) The proper number shall be determined and assigned by the Building Inspector or his authorized agent.

(f) **Street Names.**

- (1) Streets which are extensions of streets in Milwaukee County shall bear the name by which they are known in that county, excepting that directional prefixes shall be north.
- (2) All numerical street names shall be abandoned and other names substituted.
- (3) A list shall be compiled by the Assessor of all existing street names in the City of Cedarburg, and no future street shall be given a name which duplicates or approximates an existing name. Cooperation shall be sought with all towns and municipalities in the County to the end that duplication of street names shall be minimized.
- (4) The City of Cedarburg shall cooperate with neighboring towns, villages and cities to the end that streets which are continuous from one municipality or town to another municipality or town may have but one name when such single name would be desirable.
- (5) The Plan Commission shall have authority to accept or reject proposed names of new streets and of plats within the extra territorial plat approval of the City of Cedarburg or, where there is clearly a conflict or duplication in existing names, may direct the changing of one (1) or more new such names so that conflict or duplication may be minimized. Such Commission, if it sees fit, may hold public hearings at which interested property owners may express their views concerning the naming or renaming of a street or streets.

(g) **Assignment of Numbers.**

- (1) For the purpose of facilitating the establishment and continuing workability of a uniform address system in the City of Cedarburg, there shall be prepared and kept on file in the office of the Clerk a plat book showing the proper addresses of all residences and places of business within the City. It shall be the duty of the Building Inspector to inform any person applying therefor of the number or numbers and approved street names belonging to a lot or property. In case of doubt as to the proper address belonging to any property, the Building Inspector shall make the final determination.
- (2) Within thirty (30) days after the final approval of any new subdivision or other division of land, the City Engineer shall assign addresses to each new building site. Records shall be kept of the assignments and numbers shall be provided for the developer at his request. (Ord. 90-23)

(h) **Installation of Numbers.**

- (1) When the necessary survey has been completed and each residence and place of business has been assigned its respective number, the owner, occupant or agent shall install or cause to be installed in a conspicuous place upon the premises occupied by

each house or place of business controlled by him, the number or numbers assigned under the uniform address system provided for by this Section.

- (2) Numbers shall be installed within thirty (30) days from the date of assignment or immediately upon issuance of occupancy permit.
  - (3) Numbers shall be supplied by the Building Inspector at a cost of \$15 a set if they are the original numbers and shall be installed by the owner in a conspicuous place.  
(Ord. 91-37)
  - (4) Numbers shall be conspicuously placed immediately above or at the side of the proper door of each building so that the number can be seen plainly from the street. Whenever any building is situated more than seventy-five (75) feet from the street line, the number of such building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon the gate post, fence, post or other appropriate place so as to be easily discernible from the street. Numbers shall be placed not less than two (2) feet nor more than ten (10) feet above the surface of the ground and shall not be obscured by trees, landscaping or shrubbery.
  - (5) Numbers shall be not less than three (3) inches in height nor less than two (2) inches in width. Numbers shall have a contrasting background.
  - (6) Any use of script numbers shall be in addition to the use of numerals.
- (i) **Responsibility of Owner.** Whenever any residence or place of business shall be erected in the City of Cedarburg after the work of establishing a uniform address system has been completed, it shall be the duty of the owner at the time of obtaining a building permit to procure the correct number and street name from the Building Inspector and, upon occupancy, to install the number on the building or premises as provided in Subsection (h).
  - (j) **Violations.** If the owner or occupant of any residence or place of business shall neglect for the period of thirty (30) days to duly attach and maintain the proper number on such premises, the Building Inspector shall serve upon him a notice requiring such owner or occupant to properly number the premises. If the owner or occupant neglects to do so after service of such notice and a period of ten (10) days elapses, he shall be deemed to have violated this Section and shall be subject to a forfeiture as provided in Section 1-1-7.

## CHAPTER 3

### Driveways

- 6-3-1 Driveways
- 6-3-2 Permittee Liable for Damage or Injury

#### SEC. 6-3-1 DRIVEWAYS.

(a) **Permit Required.**

- (1) 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.
- (2) Permit Requirements. Unless otherwise permitted by resolution of the Common Council, upon written application giving the reason therefor, no person shall construct, repair or reconstruct any driveway across or through any sidewalk or curbing without having first obtained a permit from the City Engineer for which a fee in the sum of Thirty Dollars (\$30.00) shall be charged. Such permit shall be issued upon an application form provided by the City and shall contain such information as the City Engineer or his designee shall deem necessary; issuance shall be conditioned upon complete compliance with the provisions of this Chapter. (Ord. 92-54)

(b) **Installation Requirements.**

- (1) Street Openings. Openings for vehicular ingress and egress shall not exceed eighteen (18) feet at the right-of-way line and twenty (20) feet at the curb for less than three car garages and twenty-four (24) feet at the right-of-way line and twenty-six (26) feet at the curb for garages for three or more cars in residential districts and shall not exceed thirty (30) feet at the right-of-way line and thirty-five (35) feet at the curb in all other zoning districts. (Ord. 90-50)
- (2) Location. No driveway shall be closer than ten (10) 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. Vehicular entrances and exits to drive-in theaters, banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place of public assembly.
- (3) Drainage. 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 so 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. When required by the City Engineer so as to provide for adequate surface water drainage along the abutting street, the property owner shall provide any necessary culvert pipe at such owner's expense.
- (4) Required Surfacing. All one (1) or two (2) family homes either completed or occupied after December 8, 1980, shall be required to have either a portland concrete or asphalt driveway installed within one (1) year after occupancy.
  - (5) Islands. Islands between driveway openings shall be provided with a minimum of six (6) feet between all driveways and three (3) feet at all lot lines except that driveway islands shall not be required between lots abutting a cul-de-sac or between vacant nonconforming lots meeting the minimum requirements set forth in the City Zoning Code.
  - (6) Curb Openings. When a new curb opening is to be made, the property owner shall have the option of removing the entire curb and gutter and pouring a new concrete gutter section with curb opening, or removing the vertical face of the curb through the use of a carriage mounted, large diameter, precision concrete saw, in accordance with the specifications on file in the office of the City Engineer. (Ord. 2004-03)
  - (7) Number. No more than one (1) driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible without the impairment of safety, convenience and utility of the street by the Plan Commission. Driveway approaches shall be at least ten (10) feet apart except by special permission from the City Engineer, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the City Engineer necessary before any utility may be relocated and the driveway installed.
  - (8) 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(d) of this Code insofar as such requirements are applicable, including thickness requirements in Section 6-2-2(d).
- (c) **Permit Applications**. Permit applications shall be made at least twenty-four (24) hours in advance of intended installation but this shall not be deemed to be a limitation of time within which a permit must be granted, and the City Engineer shall have such time as reasonably necessary for examination and consideration of any application before granting the permit. The City Engineer may hold the application in abeyance, when necessary, pending review and action by the Public Works Commission.

#### **SEC. 6-3-2 PERMITTEE LIABLE FOR DAMAGE OR INJURY.**

The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances. When curb or gutter is removed, the new construction shall be of equivalent acceptable material and

curb returns provided or restored in a neat, workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a neat, workmanlike manner.

## CHAPTER 4

### 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 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 parkway 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 parkway 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) **Parkway or Terrace Areas.** "Parkway or Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curb line shall be deemed to be a parkway for the purpose of this Chapter. "Parkway" shall have the same meaning as "terrace" or "boulevard." Where there are only sidewalks, the area four (4) 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) **City Forester.** Person designated by the Common Council as authorized to carry out provisions of this Chapter.

#### **SEC. 6-4-3 AUTHORITY OF CITY FORESTER TO ENTER PRIVATE PREMISES.**

- (a) The Common Council may designate a municipal employee or citizen to perform the duties of City Forester under Chapter 27, Wis. Stats., and may authorize such City Forester to perform the duties and exercise the powers imposed on the Common Council by this Chapter. The City Forester shall annually be appointed by the Mayor, subject to Council confirmation, at the Council's organizational meetings. The City Forester shall receive administrative guidance from and be responsible to the Director of Engineering and Public Works.
- (b) The City Forester or his 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.

#### **SEC. 6-4-4 INTERFERENCE WITH THE CITY FORESTER PROHIBITED.**

No person shall interfere with the City Forester or his 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 Nuisances.** 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, 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 parkway.
    - 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 parkway 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 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 City Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.

- (3) The City Forester and his 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 City Forester.**

- (1) The City 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 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 City Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he 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 insect pests or vectors known to carry such disease fungus.

- (3) a. When the City Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he 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, 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 City 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 that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within thirty (30) days after such hearing, the City 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 City Forester may extend the time allowed the property owner for abatement work but not to exceed thirty (30) additional days. (Ord. 94-13)

- c. Notwithstanding the foregoing Subsections (d)(3)a and b, if the City Forester determines that any public nuisance as herein defined exists in or upon private premises and that the danger to other trees or foliage within the City

is imminent, he shall immediately serve upon the owner of such property, if he can be found, or upon the occupant thereof, notice to abate such nuisance within thirty (30) days of the service of said notice. If, in the opinion of the City Forester, this removal period creates undue financial hardship or limits the practicality of obtaining timely removal services, the City Forester may extend the removal period to sixty (60) days. If such owner or occupant does not abate said nuisance within the time permitted, the City Forester shall cause the same to be abated. No damage shall be awarded to the owner for the destruction of any tree, wood foliage, or any part thereof pursuant to this Section. (Ord. 94-13)

(e) **Spraying or Inoculation.**

- (1) Whenever 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 may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed or inoculated 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 City 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. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the City Forester shall also notify the Chief of Police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each block of any affected street at least twenty-four (24) hours in advance of spraying operations.
- (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 inoculated or sprayed, the City Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (d)(3).

**SEC. 6-4-6 ASSESSMENT OF COSTS OF ABATEMENT.**

- (a) The cost of abating any public nuisance or spraying or inoculating trees located in the parkway as defined herein shall be borne by the City.
- (b) The cost of abating a public nuisance or spraying elm trees or elm wood located on private premises when done at the direction and under the supervision of the City Forester shall be

assessed to the property on which such nuisance, tree or wood is located as follows:

- (1) The City Forester shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the Common Council on or before October 15 of each year.
- (2) Upon receiving the City Forester's report, the Council shall hold a public hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.
- (3) After such hearing, the Common Council shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
- (4) The City Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.
- (5) The City hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof

#### **SEC 6-4-7 PERMIT FOR PLANTING, MAINTENANCE AND REMOVAL OF TREES AND SHRUBS.**

- (a) **Permit Required.** No person, except upon order of the City Forester, shall plant or remove, or perform major alterations as determined by the Forester on a tree or shrub in the public right-of-way parkway area or cause such act to be done by others without first obtaining a written permit for such work from the City Forester as herein provided. The applicant shall comply with the planting standards of Section 6-4-8
- (b) **Permit Exemptions.** No permit shall be required to cultivate, fertilize or water trees or shrubs or for work by City personnel on park properties. No permit is necessary to plant trees inside the property line.
- (c) **Permit Requirements and Conditions.** If the City Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this Chapter, taking into account the safety, health and welfare of the public, location of utilities, public sidewalk, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil,

characteristics and physiological need of the genus, species and variety of tree or shrub, he shall issue a permit to the applicant.

- (d) **Permit Form; Expiration; Inspection.** Every permit shall be issued by the City Forester on a standard form and shall include a description of the work to be done and shall specify the genus, species and variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work under such permit must be performed in strict accordance with the terms thereof and the provisions of this Chapter. Permits issued under this Section shall expire six (6) months after date of issuance. There will be no charge for this permit.
- (e) **Permits to Public Utilities.**
  - (1) Whenever a permit is issued under this Section to a public utility to remove, trim, prune, cut, disturb, alter or perform surgery on any public tree or shrub, the City Forester shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit. The expense of such inspection or supervision shall be charged to the utility at the usual City rate.
  - (2) A public utility may secure an annual working agreement with the City Forester's office which gives the City Forester the authorization to supervise and direct work associated with trees and shrubs.

#### **SEC. 6-4-8 PLANTING OF TREES AND SHRUBS.**

- (a) **Purpose.** The Common Council hereby states its determination that the planting, care and protection of the trees within the City is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.
- (b) **Tree Planting Program.** The City Forester shall recommend to the Common Council a program for tree planting, care and protection for public parks. The Council shall also encourage the planting, care and protection of trees and shrubs on private premises within the City.
- (c) **Planting.**
  - (1) The size and genus, species and variety of trees and shrubs to be planted in parkways and the manner of planting shall be submitted to the City Forester for approval before commencement of such work. The permit application process is required in Section 6-4-7.
  - (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. Parkway trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In parkway areas less than three (3) feet wide, planting will not be permitted. Parkway-area trees shall be a minimum of twenty-five (25) feet from an intersection.
  - (3) Evergreen trees shall not be planted in a parkway 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 parkway 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 parkway trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.
- (d) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any parkway or planting easement without the authorization and approval of the City Forester may be removed. The City 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.
- (e) **Frames.** Any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame for protection, but all such work shall be performed under the supervision and direction of the City Forester.

**SEC. 6-4-9 PRUNING** (Ord. 2004-17)

- (a) The necessity of pruning trees and shrubs standing in or upon any public area or upon any private premises adjacent to any public area shall be determined by the City Forester or the Director of Parks and Recreation.
- (b) **Streets and Alleys:** Trees and shrubs shall be kept pruned by the owner of the property so that branches shall not be permitted to overhang streets and alleys at such a height that in the opinion of the City Forester interfere with vehicle traffic.
- (c) **Sidewalks and Pathways:** Trees and shrubs shall be kept pruned by the owner of the property so that branches shall not be permitted to overhang sidewalks or pathways at such a height that in the opinion of the City Forester interfere with pedestrian traffic.
- (d) **Street Lights and Signs:** No tree or shrub shall be permitted to grow in such a manner as to obstruct light from a street light or obscure public signage of any kind.
- (e) The City shall have the right, but not the obligation, to prune any tree or shrub on private property that is in violation of this ordinance when the owner fails to do so after notice, or when public safety and welfare requires that the pruning occur immediately.

**SEC. 6-4-10 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 Director of Engineering and Public Works employees shall order the 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.

#### **SEC. 6-4-11 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 public 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 City Clerk who shall thereupon enter such cost as a special charge against the property.
- (b) **Removal Standards.** In cutting down trees located in public and parkway 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.
- (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. 6-4-12 PROHIBITED ACTS.**

- (a) **Damage to Public Trees.** 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 parkway-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) 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.
  - (7) Damage a parkway-area tree with any vehicle.
- (b) **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.
- (c) **Interference With City Forester.** No person shall:
- (1) Interfere with or prevent any acts of the City Forester or his agents or employees while they are engaged in the performance of duties imposed by this Section.
  - (2) Refuse to permit the City Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Section.
- (d) **Refusal to Abate Nuisance.** No person shall permit any public nuisance to remain on any premises owned or controlled by him when ordered by the City Forester to abate such nuisance. Persons found to be in violation of this Section shall be subject to the general penalty provisions of Section 1-1-7.

**SEC. 6-4-13 APPEAL FROM DETERMINATIONS OR ORDERS.** (Ord. 2007-20)

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 Chapter 68, Wis. Stats., to the Park and Forestry Board within seven (7) days of receipt of the order and the Park and Forestry Board shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Park and Forestry Board may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Park and Forestry Board 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 Park and Forestry Board shall file its written decision with the City Clerk.

**SEC. 6-4-14 TREE PRESERVATION** (Ord. 2001-52)

(a) **Purpose and Intent.**

- (1) Cedarburg recognizes that trees and woodlands help to reduce storm water runoff and erosion, replenish ground water supplies, preserve wildlife habitats, enhance and preserve air quality, the climate, the environment, protect property values and provide educational and recreational opportunities.
- (2) Cedarburg also recognizes that preservation and/or replacement of trees during the land development/building construction process is a public benefit and in the interest of preserving the health and welfare of the people.
- (3) This ordinance applies to all land disturbance activity on undeveloped property, which has been recently annexed to the City or is in the process of being annexed for development. It shall be applied to such lands in their pre-development condition through the process of reviewing and approving land divisions, site plan approvals and subdivision development. Said development activity shall comply with the Tree Preservation ordinance and implementing regulations.
- (4) This ordinance shall not apply to lands after their initial development has occurred.

(b) **Definitions**

- (1) **Superintendent of Parks and Forestry** is designated as the “City Forester” per the meaning in Sec. 6-4-3.
- (2) **Diameter at Breast Height (DBH):** A standard measure of tree size. A tree trunk diameter measured at a height of four and on-half (4 ½) feet above the ground. If a tree splits into multiple trunks below the 4-½ foot mark, then the trunk is measured at its most narrow point beneath the split.
- (3) **Land Disturbance Activity:** Any manmade change of the land surface including removal of a tree(s) or vegetative cover, excavation, filling, and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops.
- (4) **Development Site:** Any area in the process of annexation; any undeveloped property already annexed, any area subject to land division, condominium or

subdivision development.

- (5) **Natural Areas:** Any area found on a parcel of land that includes but may not necessarily be limited to one of the following: wooded areas (trees, shrubs, etc), undisturbed areas, prairies, wetlands and natural ecosystems.
- (6) **Undeveloped Property:** Lands, which are devoid of structures above and below the ground. (Note: Structures shall be as defined in Section 12-1-240(141) of the Zoning Code.)
- (7) **Specimen Tree (s):** Any tree or grouping of trees which has been determined to be of high value by the Superintendent of Parks and Forestry because of its size (24” or greater DBH), age, historic significance or other professional criteria.
- (8) **Tree:** Any self supporting woody plant having a well-defined stem, a well-defined crown and has attained a height of at least eight feet with a trunk of not less than three (3) inches diameter at breast height (DBH). Or, a cluster of main stems having an aggregate diameter of not less than three (3) inches DBH. (Note: Containerized trees and nursery stock in licensed commercial nurseries are exempt from the provisions of this ordinance.)
- (9) **Tree Preservation Guidelines and Administrative Standards:** The implementing regulations established by the Park and Forestry Board and published by the Park and Recreation Department to be used by the Superintendent of Parks and Forestry, developers and residents of Cedarburg in identifying, preserving and protecting specimen and other trees.

(c) **Applicability**

- (1) The terms of this ordinance shall apply to all proposed land disturbance activity occurring on undeveloped/unplatted annexed property and property in the process of being annexed, or platted property associated with a land division, other condominium and subdivision development including but not limited to residential, commercial, industrial, and institutional uses except as otherwise noted herein.
- (2) With the submission of a preliminary plat or certified survey map, the developer/owner must identify and delineate all natural areas and indicate the approximate average DBH and the range of DBH sizes found in each natural area.
- (3) Provisions of this ordinance shall not apply to the following:
  - a. Lots developed and platted prior to the adoption of this ordinance
  - b. Lots for which a building permit has been issued for principal structures or principal use
  - c. Projects initiated by the City, as determined by the Common Council on a case-by-case basis, where the public good and/or health and welfare are a concern (including but not limited to installation of sanitary sewer, public roads, drainage improvements)

(d) **Permit Procedure**

- (1) The developer/owner shall submit a landscape plan in conjunction with the proposed development or land disturbance as specified in the Tree Preservation Guidelines. The landscape plan shall be submitted to the Superintendent of Parks and Forestry,

Park and Recreation Department and Plan Commission or Park and Forestry Board, as applicable, for review. The Superintendent of Parks and Forestry may be requested to inspect the designated site for specimen and/or other trees for the purpose of preservation.

- (2) Based upon the Superintendent of Parks and Forestry inspection and review of the land disturbance, preliminary plat or certified survey map (and landscape plan submitted for subdivision development, as required in the Tree Preservation Guidelines), the Superintendent of Parks and Forestry and/or Plan Commission, as applicable, may suggest a modification and/or alternate location for site development, if in their opinion it may preserve trees in accordance with this ordinance and the Tree Preservation Guidelines. This recommendation shall be in writing.
- (3) The Superintendent of Parks and Forestry shall review all preliminary plats and certified survey maps and, when necessary, recommend modifications prior to Plan Commission approval.

(e) **Removal of Specimen Trees**

- (1) No specimen trees shall be removed from a development site as of November 12, 2001 except as provided in (e) of this ordinance. Documentation requesting removal shall be submitted to the Superintendent of Parks and Forestry, as applicable, as part of a landscape plan, in accordance with the Tree Preservation Guidelines prior to final plat or land division or site plan approval.
- (2) It shall be unlawful to remove, injure, destroy, or undertake any procedure that may cause the death or substantial destruction of any specimen tree located on the development site without the express written permission of the Superintendent of Parks and Forestry or his representative.
- (3) If a specimen tree is proposed to be removed, the Superintendent of Parks and Forestry shall review the site for any alternative location for driveway, building and/or other construction in order to preserve the specimen trees.
  - a. If it is found that construction cannot occur on a development site without removal of specimen tree(s), the Park and Forestry Board may require reconfiguration of the proposed locations of buildings, roads, parking areas, or lot lines in an effort to preserve trees.
  - b. In the case outlined above, the Park and Forestry Board can direct the Superintendent of Parks and Forestry to authorize the removal of specimen trees pursuant to Sec. 4 d. below.
- (4) Authorization for removal of any specimen tree located on the development site may be granted for the following reasons:
  - a. The tree is dead or dying; or
  - b. The tree is diseased; or
  - c. The tree is damaged or injured to the extent that it is likely to die or become diseased; or
  - d. Where removal will avoid or alleviate unreasonable difficulty or hardship.

- (5) The owner/developer shall pay specimen tree replacement fees in each of the following instances, as directed by the City:
  - a. In the event the removal of the tree is authorized to avoid or alleviate unreasonable difficulty or hardship.
  - b. In the event the tree is damaged or injured by other than natural causes to the extent that is likely to die or become diseased, or it constitutes a hazard to persons or property.
  - c. In the event the tree is unlawfully removed in violation with this ordinance.
- (6) Tree replacement fees, pursuant to Subsections (e) (5) a. or (e) (5) b. will be in accordance with the Tree Preservation Guidelines. Where tree replacement fees are due as a result of unlawful removal of a tree, in violation of the ordinance, the Superintendent of Parks and Forestry will require fees based upon the replacement value as determined by a certified arborist in accordance with the latest revision of a Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.
- (f) **Enforcement.** It shall be the duty of the Superintendent of Parks and Forestry, Parks and Recreation Department, or its authorized representative to enforce this ordinance. The Superintendent of Parks and Forestry, Parks and Recreation Department or authorized representative shall have the authority to revoke, suspend or void any land disturbance permit and shall have the authority to suspend all work on a site or portion thereof for violation of this ordinance.
- (g) **Violations and Penalty.** Any person, firm or corporation violating any of the provisions of the ordinance may be subject to a forfeiture of not less than \$500.00 per violation together with the costs of such action. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as a result of the violation of any provision of this ordinance, the injury, mutilation or death of a specimen tree is caused, the cost to repair or replacement shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined by a certified arborist in accordance with the latest revision of a Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture. The developer/owner shall pay all fees associated with the certified arborist's appraisal.
- (h) **Appeal.** Any person aggrieved or affected by any decision of the Superintendent of Parks and Forestry, Park and Forestry Board, Plan Commission or City Staff relating to the application of this ordinance may appeal to the City of Cedarburg Board of Appeals.

#### **SEC. 6-4-15 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.