

## TITLE 6

### Public Works

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## CHAPTER 1

### Public Works

6-1-1	Statutory Public Works Authority
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#### SEC. 6-1-1 STATUTORY PUBLIC WORKS AUTHORITY.

Without limitation because of enumeration, the Town Board may:

- (a) **Acquire Lands.** Notwithstanding Sec. 60.10(2)(e), Wis. Stats., acquire lands to lay, construct, alter, extend or repair any highway, street or alley in the Town of Waukesha.
- (b) **Streets, Sewers and Water Mains.** Provide for laying, constructing, altering, extending, replacing, removing or repairing any highway, street, alley, sanitary sewer, storm sewer or water main in the Town.
- (c) **Sidewalks.** Provide for construction, removal, replacement or repair of sidewalks under Sec. 66.615, Wis. Stats.
- (d) **Lighting Highways.** Provide for lighting for highways, as defined under Sec. 340.01(22), Wis. Stats., located in the Town.
- (e) **Lake Improvement.** Provide for making improvements in any lake or waterway located in the Town.

State Law Reference: Section 60.50, Wis. Stats.

#### SEC. 6-1-2 PAYMENT FOR PUBLIC WORKS; SPECIAL ASSESSMENTS.

The Waukesha Town Board may levy and collect special assessments and charges under Sec. 66.60, Wis. Stats., and Title 3, Chapter 2, of this Code to pay for all or part of the cost of any public work or improvement. Special assessments may be paid under Sec. 66.54, Wis. Stats. Reassessments shall be under Sec. 66.635, Wis. Stats.

State Law Reference: Sections 60.51, 66.54, 66.60 and 66.635, Wis. Stats.

**SEC. 6-1-3 BURNING OR DEPOSIT OF RUBBISH ON HIGHWAY RIGHT-OF-WAYS PROHIBITED.**

It shall be unlawful for any person to throw or deposit any weeds, sod, brush, cans, glass, gravel, stones, boulders, machinery, garbage or other waste or rubbish in or on the right-of-way of any highway located in the Town of Waukesha, Waukesha County, State of Wisconsin, or to burn any material of any nature in or on the right-of-way of any such highway or road, and particularly the paved portions thereof, in the Town of Waukesha.

**CHAPTER 2**

Construction of Town Highways and Roads

6-2-1 Construction of Town Highways

6-2-2 Permits for Access to and Alterations in Collector and Arterial Highways

**SEC. 6-2-1 CONSTRUCTION OF TOWN HIGHWAYS.**

- (a) **Profiles.** The subdivider or owner desiring acceptance of a new Town highway shall first submit construction plans and profiles, including the proposed drainage system, and obtain approvals of the established grades on all the proposed highways from the Town Engineer and the Town Board prior to proceeding with any grading operations. The Town Engineer and the Town Board shall determine the maximum and minimum grades established and the maximum and the minimum slope in any cut, or cuts, to be made in connection with the construction of any Town highway, and the type and character and amount of fill necessary for the construction of any such highway, before any grading operations shall be commenced. All highway grades shall conform to the Town's subdivision regulations. Upon completion of construction, the subgrade of the highway must be reviewed and approved by the Town Engineer before the gravel base is installed. Accordingly, the gravel base of the highway must be reviewed and approved by the Town Engineer before the bituminous concrete base course pavement is installed. Each application of bituminous concrete pavement must be reviewed and approved by the Town Engineer.
- (b) **Culverts.** All culverts installed for new principal buildings, as defined by Title 13 of the Town Zoning Code, shall be installed by the Town prior to building permit issuance. Any additional culverts, repairs, or culvert replacements shall be installed by the Town, in compliance with this ordinance and Section 6-4-2. All costs for the culvert installation and culvert permit shall be paid to the Town prior to building permit issuance (see Title 16-Fees). All culverts installed for the purpose of permitting access to any property located in the Town from any Town road shall meet the following specifications (see also Section 6-4-2).
  - (1) Culverts shall be not less than twenty-two (22) feet, nor more than thirty-three (33) feet in length.
  - (2) Not more than two (2) culverts shall be installed to provide access from a Town road to any property used as a single-family residential property with a minimum of fifteen (15) feet between culverts.
  - (3) Culverts shall be constructed of corrugated metal pipe or reinforced concrete pipe, with the type and class of pipe as specified by the Town Engineer and approved by the Town Board. Alternative culvert pipe material is to be submitted to and approved by the Town Engineer and the Town Board.
  - (4) Concrete ends shall be required for all driveway culverts for all properties used for residential, institutional, or commercial purposes and constructed at the time the culvert is installed.

Concrete ends shall be a minimum of four (4) inches thick. They shall extend a minimum of six (6) inches above and below the culvert and a minimum of twelve (12) inches on each side of the culvert. Concrete ends or curbs may be installed four (4) inches above the finished grade of driveway if the curb's tapered end is a minimum of eight (8) feet from the edge of the road pavement and has a maximum slope of 3:1 for the tapered end. (See diagram – Culvert/Driveway Installation.)

- (5) The minimum culvert size shall be fifteen (15) inches in diameter. All culvert lengths and culvert sizes shall be sized by a registered engineer and shall be approved by the Town Engineer prior to installation. Arch pipe culverts may be used if approved by the Town Engineer.
  - (6) Placement of culverts shall be made by the Town Board or designee who is responsible to have the culvert installed to the grade approved and as directed by the Town Board.
  - (7) All culverts shall be installed prior to any excavation or construction activity.
  - (8) When installing a culvert, the property owner shall undertake reasonable measures so as to prevent damage to Town road ditches.
  - (9) For lots that were approved by the Town after January 1, 1980, it shall be the responsibility of the property owner to repair any culvert, and to maintain the road ditch abutting their lot so as to meet current Town ordinance requirements, including any driveway pavement that may need to be replaced.
  - (10) For lots that were approved by the Town before January 1, 1980, it shall be the responsibility of the property owner to repair the culvert and road ditch, within ten feet (10 ft.) on either side of the culvert, so as to meet current Town ordinances, including replacement of any driveway pavement. The Town shall be responsible for adjusting/setting the culvert grade on a case-by-case basis so as to comply with the road design requirements as set forth in the Town ordinance. It shall be the responsibility of the Town to pay the cost of the road ditch repair/regrading as to that portion of the road ditch which extends more than ten feet (10 ft.) from either side of the culvert.
  - (11) If the cost of grading a road ditch exceeds Five Thousand Dollars (\$5,000.00), the project will need to be approved by the Town Board in their budget as a specific line item. If the regrading project involves undeveloped land, the Town Board has the option of billing the property owner at the time of the development, or placing the bill on the property owner's property taxes as a special assessment per Section 66.60(16).
  - (12) Grates shall be installed for new culvert installation or culvert repairs if one of the following conditions apply:
    - a. Culverts 24 inches in diameter (or the arch equivalent) or larger.
    - b. Storm sewer entrances 24 inches in diameter or larger.
    - c. Entrances to closed systems in excess of 18 inches in diameter.
  - (13) Grates installed shall:
    - a. Have minimum ½ inch diameter bars.
    - b. Have bars which have maximum 6 inch separation.
    - c. Have bars installed vertical at inlet (upstream) end.
    - d. Have bars installed horizontal on downstream (outlet) end.
    - e. Be one of the following materials: galvanized steel, epoxy coated iron or aluminum
    - f. Be bolted to culvert or storm sewer with stainless steel fasteners.
    - g. Inlet (upstream) grates shall be sloped not less than 2 1/2 to 1.
  - (14) Exceptions – If the property owner believes they cannot comply with this Ordinance due to existing road and drainage ditch conditions, existing mature trees, etc., they may petition the Town Board in writing for an exception from this Ordinance.
- (c) **Width.** All new Town highways shall be a minimum of sixty-six (66) feet in width.
- (d) **Center of Road.** The center of the roadbed shall be on the centerline of the land dedicated for road purposes. The grade of said roadbed shall conform to the approved profiles.
- (e) **Minor Street Construction.** Minor streets shall have a twenty-four (24) foot wide bituminous concrete surface with three (3) foot wide shoulders on either side sloped as per Town's typical cross-section on file at the office of the Town Clerk, and such construction shall be as follows:
- (1) Subgrade Preparation.

- a. Unstable and organic material such as topsoil, mucky soil and peat shall be removed the full depth of the unstable material or to a depth as specified by the Town Engineer and replace with compacted No. 2 crushed stone and/or geotextile fabric unless otherwise specified by the Town Engineer and the Town Board. All undercutting of unstable material and replacement of compacted crushed stone that is required by the Town in order to provide a stable road subgrade shall be done at the owner's or developer's expense.
- b. Rock shall be excavated to a point at least twenty (20) inches below the finished grade of roads and eight (8) inches below ditch grades. Undrained pockets in the rock shall be drained before the base material is installed.
- c. The road ditches shall be constructed as per the typical street cross-section plan on file in the office of the Town Clerk.
- d. When grading operations are complete on any Town street, and prior to the placement of any gravel, the Town Engineer shall be notified five (5) working days in advance to witness a proof roll of the roadbed and determine if ready for gravel.

(2) Base Materials.

- a. The road subgrade shall be surfaced with five (5) inches of compacted one and one-half (1-1/2) inch traffic bond or, if permitted by the Town Engineer and the Town Board, one and one-half (1-1/2) inch crushed gravel, containing at least sixty (60%) crushed stone for the first application. If additional gravel is required in the judgment of the Town Engineer or Town Board to stabilize the road, the same shall be furnished and installed to the satisfaction of the Town Engineer and the Town Board before acceptance, at no cost to the Town of Waukesha.
- b. The second application shall be five (5) inches of compacted three-fourths (3/4) inch crushed gravel containing at least sixty percent (60%) crushed stone conforming to Gradation No. 2 of the Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition, excepting that a maximum only ten percent (10%) passing the No. 200 sieve shall be permitted.
- c. If gradation tests are necessary for acceptance by the Town Engineer and the Town Board, such testing shall be done at the developer's expense.
- d. Stone base may not be installed on frozen grade.

(3) Road Surface.

- a. A two and one-half (2-1/2) inch thick bituminous concrete base course, gradation No. 2 per Wisconsin Department of Transportation Standard Specifications, shall be applied.
- b. The bituminous materials used shall be asphalt type AC having a penetration grade of 85-100.
- c. Asphaltic Concrete materials for the base course shall be four percent to six percent (4-6%) of the composite mix unless otherwise specified by the Town Engineer and the Town Board.
- d. The first shoulder application, as shown on the Town's typical cross-section plan on file in the office of the Town Clerk, shall then be applied and compacted in place. This material shall consist of three-fourths (3/4) inch crushed gravel similar to the top five (5) inches of base course material.
- e. At least after one winter or after a maximum time of three (3) years, unless specified earlier by the Town Engineer and the Town Board, from the completion of the above bituminous concrete base course installation, the developer shall apply a tack coat to this existing surface with MC-0 or an approved asphalt emulsion at a rate of from 0.10 to 0.20 gallons per square yard as specified by the Town Engineer and the Town Board.
- f. The subdivider/owner shall then install a one and one-half (1-1/2) inch thick bituminous concrete surface course, gradation No. 3 with 0% recycled content per Wisconsin Department of Transportation Standard Specifications. Prior to the installation of this bituminous concrete surface course pavement, the developer or the developer's contractor

shall obtain approval from the Town Engineer and the Town Board forty-five (45) days prior to the commencement of this work, unless it is waived by the Town Board.

- g. Asphaltic Concrete material for this course shall be five percent to eight percent (5-8%) of the composite mix unless otherwise specified by the Town Engineer and the Town Board.
  - h. The final shoulder application as shown on the Town's typical cross-section plan on file in the office of the Town Clerk shall then be applied and compacted in place. This material shall consist of three-eighths (3/8) inch or three-fourths (3/4) inch maximum size crushed limestone traffic bond material as specified by the Town Engineer and the Town Board.
  - i. The final shoulder application as shown on the Town's typical cross-section plan on file in the office of the Town Clerk shall then be applied and compacted in place. This material shall consist of three-eighths (3/8) inch or three-fourths (3/4) inch maximum size crushed limestone traffic bond material as specified by the Town Engineer and the Town Board.
  - j. Pavement may not be installed before May 1, after November 1 or on frozen base without the express written approval of the Town Board.
  - k. A rural or urban Town Road shall be installed per the cross sections on file as determined by the Town Board.
- (4) Specifications and Maintenance.
- a. All of the above work shall be in accordance with the Wisconsin Department of Transportation Specifications, latest edition.
  - b. Maintenance of the streets and the ditches constructed by the developer shall be his/her responsibility until final acceptance has been given by the Town Engineer and the Town Board.
- (f) **Major and Collector Streets Construction.** Major and collector streets shall have a thirty (30) foot wide bituminous concrete surface consisting of a three and one-half (3-1/2) inch bituminous concrete base course and a one and one-half (1-1/2) inch bituminous concrete surface course with seven (7) foot wide shoulders on either side sloped as per the Town's typical cross-section plan on file in the office of the Town Clerk. The ten (10) inch thick base material shall extend below both seven (7) foot shoulders. Road ditch side slopes shall be as per the Town's typical cross-section plan on file in the office of the Town Clerk. Materials shall be as specified above. A rural or urban Town Road shall be installed per cross sections on file as determined by the Town Board.
- (g) **Acceptance of Town Streets.**
- (1) Streets will not be accepted by the Town before May 1st or after November 1st.
  - (2) Before final acceptance of any Town street, the owner or developer must furnish sufficient proof to the Town, as the Town Board may require, that all costs for the street construction have been paid for by said owner or developer.
- (h) **Payment for Improvements.** The costs of all street signs and traffic related signs (such as caution, speed limit and stop signs, etc.), culverts, culvert posts, guard rails, culvert headwalls, ditch construction, riprap material and concrete inverts as required by the Town Engineer and the Town Board for the respective development shall be installed or constructed by the developer at his/her expense. The cost of all engineering and inspection work that is performed by the Town Engineer in regard to the respective development shall be paid by the developer.
- (i) **Grades.** Prior to the request for street inspection for acceptance by the Town, the subdivider shall furnish the Town Engineer a written certificate from the subdivider's surveyors that the streets conform to the grades as indicated on the profile plans which have been approved by the Town Engineer and the Town Board.
- (j) **Cul-de-Sacs.** On dead-end streets a turnaround or cul-de-sac of not less than one hundred thirty-two (132) feet in diameter shall be provided. If such turn around or cul-de-sac shall be permanent, the same shall be surfaced to a width of forty-five (45) feet radius by bituminous surfacing to be approved by the Town Engineer and Town Board. Where a temporary cul-de-sac shall be provided, the same shall be surfaced to a width determined by the Town Engineer and Town Board. All temporary cul-de-sacs

shall be located and constructed at the subdivision line or to the limits of a phased development as required by the Town Engineer and the Town Board. The cul-de-sac's construction shall include not only the surface and shoulder installations but also all ditch construction and culvert or storm sewer installation that is necessary for the drainage of storm water across and/or around the cul-de-sac as required by the Town Engineer and the Town Board. When land developed adjoins a temporary cul-de-sac, it shall be the responsibility of the developer to remove the temporary cul-de-sac and construct a continuous roadway. There shall be no "soft center" or unpaved islands in cul-de-sacs unless specifically approved by the Town Board after receiving comments from the Fire Chief and the Developer entering into an agreement, in a form satisfactory to the Town Board, with the Town for the permanent care and maintenance of the soft center or unpaved island.

- (k) **Slopes, Ditches and Shoulders.** All slopes shall be seeded and have a substantial stand of grass after two (2)-two (2) inch cuttings and with no more than 5% bare areas before the road is accepted. All slopes, ditches, roadway and shoulders shall be placed in such a manner as the Town Engineer and the Town Board shall direct to prevent washing out of the same. The shoulder shall be three (3) feet wide on each side of the paved portion of the highway or such other width as the Town Engineer and the Town Board shall determine. In the event that the grade of any proposed Town highway shall be such that it may be subject to washing out by rainfall or surface water drainage, in the opinion of the Town Engineer and the Town Board, the Town Engineer and the Town Board may require that the inverts and sideslopes be sodded or riprapped, or in lieu of sodding or riprapping, the Town Engineer and the Town Board may require concrete or bituminous treatment of such inverts, sideslopes, roadway and shoulders to a sufficient thickness satisfactory to the Town Engineer and the Town Board to prevent such washing out. The minimum grade for the constructed ditch inverts shall be 1.00% unless otherwise specified by the Town Engineer and the Town Board.
- (l) **Letter of Credit.** The developer shall execute a letter of credit to the Town at 120% of an amount to be determined by the Town Engineer and Town Board and in a form to be approved by the Town Attorney. Such letter of credit shall guarantee that the developer or owner shall pay all costs and expenses for the construction and maintenance of the streets, inverts, sideslopes, and shoulders thereof, and such letter of credit shall remain in full force and effect until released by the Town Board. The letters of credit may be released in parts by recommendation of the Town Engineer and approval of the Town Board.

Sec. 6-2-2 Construction of Town Highways and Roads

## **SEC. 6-2-2 PERMITS FOR ACCESS TO AND ALTERATIONS IN COLLECTOR AND ARTERIAL HIGHWAYS.**

### **(a) General.**

This regulation is promulgated for the purpose of designating standards within which the Town will issue permits, for placing, constructing or altering driveways, for movement of traffic between collector and arterial highways and abutting property otherwise making excavations or fills, installing culverts or making other alterations in any collector and arterial highway or in other manner disturbing any such highway or bridge thereon. The purpose of the design standards herein prescribed is to promote the orderly and safe movement in and out of private properties in such manner as will constitute a minimum of interference to through highway traffic, and to control the use of drainage structures and appurtenances as may be necessary to preserve the physical structure of the highway.

### **(b) Definitions.**

- (1) **Access Point:** Within this ordinance, the term "access point" shall mean a constructed vehicular pathway to a single parcel of land adjacent to the highway or to many parcels of land all of which are adjacent to the constructed vehicular pathway (public or private street). The term "access point" shall be considered as synonymous with the terms point of access, private drive, residential driveway, commercial driveway, street opening or any similar term.

(2) Collector and Arterial Highways: Those highways that exceed 2,500 vehicles per day or as determined by the Town Board.

**(c) Prohibitions.**

No person shall construct an access point within the meaning of this ordinance until or unless a valid permit has been obtained from the Town Building Inspector. In addition, no person shall alter, in any way, existing appurtenances or features within the highway right-of-way including but not limited to ditches, drainage ways, culverts, bridges or pavement surfaces (including existing access points) until a proper permit therefore has been obtained. A permit may not be granted for the purpose of parking or servicing vehicles or for advertising, storage, or merchandising of goods on the highway right-of-way.

**(d) Access Point Design Criteria.**

- (1) The design criteria of access points for mixed developments shall be determined on a per case basis by recommendation of the Town Engineer & Approval by the Town Board as part of the permitting process.
- (2) For other land uses listed below, the following design criteria shall be applied to access points serving the delineated land uses: (References to types are to be specific drawing available through the Town of Waukesha from its Intersection Details Materials.)

<u>Multi-Family</u>	<u>Type</u>
(a) 1-10 units	C
(b) 10-20 units	B
(c) more than 20 units	A,D

<u>Subdivision</u>	<u>Type</u>
(a) up to 50 units	B,D
(b) more than 50 units	A,D

<u>Commercial/Industrial</u>	<u>Type</u>
(a) up to <u>25,000</u> sq. ft.	C
(b) greater than 25,000 sq. ft.	A,B,D

- (3) In the event that the applicant proposes a use not enumerated herein, the Town Board shall make the determination of the applicable criteria based upon the need to preserve highway capacity and safety upon the recommendation of the Town Engineer.
- (4) A bypass lane shall be required for all "T" type intersections when traffic on the adjacent highway exceeds 2500 vehicles per day or a bypass lane is ordered by the Town Board dependent on topography, geometry or 1500 vehicles per day.

**(e) Location and Construction Requirements.**

- (1) The location, design, and construction of an access point shall conform to the following:
  - a. An access point shall be located and restricted as to width as necessary so that the entire access point or roadway and its appurtenances are contained within the frontage along the highway of the property served. The Town Board may permit the use of highway right-of-way to complete construction of the access point where said construction would otherwise be outside the boundaries of applicant's property. At public highway intersections an access point shall not provide direct ingress or egress to or from the public highway intersection area and shall not encroach on or occupy areas of the roadway or right-of-way deemed necessary for effective traffic control, highway signs, signals or vision corners.
  - b. An access point shall be so located and constructed that vehicles either approaching it or using it will have adequate sight distance in both directions along the highway. This adequate sight distance shall be defined as follows:

- For developments of four units or less, the sight distance shall be equal to the stopping sight distance for the posted speed on the collector or arterial highway immediately in front of the property.
  - For developments of more than four residential units and for all other developments, the sight distance shall be at least equal to the 1990 AASHTO Design Guide Curve B-2.
- c. Except on a controlled access highway, the number of access points permitted serving a single property frontage prior to any land division along a collector or arterial highway shall be the minimum deemed necessary by the Town Board for reasonable service to the property without undue impairment of safety, convenience, and utility of the highway. Successive land divisions shall not increase the number of access points permitted. However, the number of access points permitted shall not be greater than: 0-600'-1; 600-1500'-2; 1500-2500'-3; 2500'-mile-4. In addition, a minimum distance of 500 feet shall be maintained from the intersection of any state, county trunk highway, Town collector or Town arterial highway. Said distance shall be measured from the centerline of the access point to the nearest edge of pavement of the intersecting highway or Town road.
- (2) The island area on the right-of-way between successive access points or adjoining an access point and between the highway shoulder and right-of-way line shall remain unimproved for vehicular travel or parking. Such areas shall be considered as restricted and may be filled in or graded down only as provided by this ordinance.
  - (3) The surface of the access point connecting the rural type highway sections shall slope down and away from the edge of pavement a sufficient amount and distance to preclude ordinary surface water drainage from the access point area flowing onto the highway roadbed.
  - (4) The access point shall not obstruct or impair drainage in highway side ditches or roadside areas. Access point culverts, where necessary, shall be minimum 10-year design storm adequate for surface water drainage along the highway and in no case less than the equivalent of a 15-inch diameter pipe. The distance between culverts under successive access points shall be not less than 15 feet except as such restricted area is permitted to be filled in under the provisions of this ordinance. In the event that installation is performed by the permittee or contractor, prior to backfilling, the Town Engineer must inspect and approve the installation.
  - (5) When any curb or gutter is removed for constructing an access point, the new connections shall be of equivalent acceptable material and curb returns provided or restored in a neat, workmanlike manner and comply with Chapters 6-2, 6-3 and 6-4. The access point construction shall include replacement of sidewalk areas, which are inadequate or become damaged by reason of vehicular travel across the sidewalk.
  - (6) Any highway surfaces, shoulders, ditches and vegetation that are disturbed by the construction of the access point shall be restored to the equivalent of the original condition by the permittee. In the event that the permittee fails to comply with this section and the Town of Waukesha must engage in restoration work, the permittee shall be charged an hourly rate as set by the Town Board in addition to the cost of necessary supplies used in said work.
  - (7) The restricted area between successive access points may be filled in or graded down only when the following requirements are fully complied with:
    - a. The filling in or grading down shall be to grades approved by the Town Board and except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the highway roadbed in a suitable manner.
    - b. Culvert extension under the restricted area shall be of like size and material or of material acceptable to the Town Board for the access point culvert and intermediate manholes adequate for cleanout purposes may be required where the total culvert length exceeds 100 feet.
- c. Where no highway side ditch separates the restricted area from the highway roadbed, permanent provision may be required to separate the area from the highway roadbed, to



prevent its use for access point or parking purposes, by construction of a border, curb, rail or posts deemed adequate by the Town Board.

**(f) Town of Waukesha, Permit Requirements and Application Process:**

- (1) The applicant shall complete the required permit forms as supplied by the Town of Waukesha. They shall be submitted to the Town, along with supplemental information required by this ordinance.
- (2) Applications shall be accompanied by a subdivision plat, certified survey map, plat of survey, or proposed site plan showing the location of the access point desired.
- (3) The applicant shall stake the location or centerline of the proposed access point in the field with the surveying lath and an identifying colored ribbon.
- (4) Applicants for access to developments with more than 100 residential units or 50,000 sq. ft. commercial or industrial development or any combination thereof, shall be required to submit a traffic impact study in a form as specified by the Town Board.
- (5) Applicants must represent all parties in interest to the land and the Town of Waukesha shall provide a permit form, which requires the applicant to affirmatively state that they represent all parties in interest.
- (6) Before a permit is issued, the Town Board may require that the permittee show to the Town Engineers satisfaction:
  - a. That the type of construction and materials to be used by the applicant are suitable and appropriate for the intended purpose of the applicant; and,  

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  - a. That the permittee has a plan to make the installation of the access point without jeopardy to or interference with traffic using the highway.
  - b. A site grading plan
- (7) No relocations, revisions or additions shall be made to the proposed access point or its appurtenances on the right-of-way without the written permission of the Town Board. Upon completion and approval of the access point, no revisions may be made without the prior written approval of the Town Board.
- (8) All permittees must agree, on the form supplied by the Town, to hold the Town of Waukesha harmless against any action for personal injury or property damage sustained by reason of the issuance or exercise of the permit.
- (9) The Town of Waukesha authorization to issue permits pursuant to this ordinance is limited to permits for placing, constructing and altering private access points, with and without pipes, for the movement of traffic between highways and abutting property, and to landscaping or other minor grading or alterations in roadway slopes and embankments on highways adjacent to lands owned by the permittee.
- (10) Permits for such installation or alterations within the limits and conditions established hereby shall be issued by the Town and permits for such installations or alterations exceeding the limits or conditions established hereby shall be issued only on specific approval of the director.
- (11) No permit shall be issued or be valid for construction of an access point connecting adjacent lands directly with the through roadway of a controlled access highway unless and until such access point is authorized and approved by the director.

**(g) Appeal of Denial of Permit.**

Any applicant for a permit under this ordinance is entitled to pursue an appeal to Town of Waukesha Town Board.

**(h) Violations.**

- (1) Any access point which is found to have been constructed in violation of these regulations shall be declared illegal. The illegal access point shall be treated as follows:

- a. The violator shall be notified in writing, that he has an illegal access point and must apply for a permit.
- b. The violator shall be given ten (10) business days within which to file a proper application.
- c. The violator's application shall be reviewed and either a permit issued or a notice of correction issued.
- d. The violator shall have twenty (20) business days to submit a plan of corrections and timetable for building same, for approval by the Town Board.
- e. If the violator fails to apply for a permit or submit a plan of corrections, or implement the plan in accordance with the timetable, the access point shall be removed or rendered unusable by the Town of Waukesha. Costs associated with said removal or obstruction shall be charged to the violator.

### **CHAPTER 3**

#### Streets and Sidewalks

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**SEC. 6-3-1      REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.**

No owner or occupant shall allow the sidewalk abutting on his/her premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Town Board or its designee, the Town Board or its designee may cause the same to be done and report the cost thereof to the Town 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. 6-3-2      CONSTRUCTION AND REPAIR OF SIDEWALKS.**

- (a) **Board May Order.** The Town Board may determine that sidewalks or curb and gutter may be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the Town. The Town Board may determine or change the width or grade of any street or sidewalk.
- (b) **Cost of Sidewalks.**
- (1) New Subdivision Sidewalks. Sidewalks required in new subdivisions and developments shall be paid for by the land divider pursuant to Title 14 of this Code of Ordinances. New sidewalks constructed in existing areas of the Town shall be paid for by adjacent property owners.
  - (2) Sidewalk Repair and Reconstruction. It shall be the duty of the abutting owner to build, repair, construct, and perpetually maintain sidewalks along or upon any street, alley or highway in the Town as determined by the Town Board and to pay the entire cost thereof. Whenever the Town Board 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 Town, it shall proceed according to Sec. 66.615, Wis. Stats. Such costs shall be specially assessed one hundred percent (100%) to the adjacent property owner.
- (c) **Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the Town of Waukesha unless he/she is under contract with the Town to do such work or has obtained a permit therefore from the Town Highway Department at least seven (7) days before work is proposed to be undertaken. A fee shall be charged for such permit (see Section 16-1-4 Fees).
- (d) **Standard Specifications for Sidewalk.**
- (1) General.
    - a. All sidewalks shall be constructed of masonry meeting Wisconsin Department of Transportation Standard Specifications, unless otherwise specified in this Section.
    - b. Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the Town. All sidewalks constructed in the Town shall conform to the line and grade established by the ordinances or resolutions of the Town. Where no grade has been established as ascertained by the records, the Town Engineer shall prepare and report a grade for the approval of the Town Board; and, when the same has been established, the Town Engineer shall stake out the sidewalk as ordered by the Town Board. No sidewalk shall be laid under the provisions of this Section until a grade therefor has been established by the Town Board.
  - (2) Subgrade. All earth, dirt and material shall be removed to a depth, not less than eight (8) inches, ten (10) inches across private driveways, below the grade line; and the space shall be filled with crushed stone, sand or gravel. The base shall be left four (4) inches thick after being tamped, with the stone or gravel to be not larger than one and one-half (1-1/2) inches in diameter and to be free from dirt, dust and foreign matter. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand, gravel, or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. On embankments, the subgrade shall extend at least one (1) foot beyond each edge of the sidewalk.
  - (3) Concrete. The minimum quantity of cement per cubic yard shall be six (6) ninety-four (94) pound sacks. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test two thousand (2,000) pounds compression in twenty-eight (28) days. Bituminous sidewalks are prohibited.
  - (4) Forming. Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. Forms shall be securely fastened, staked, braced and held firmly to required

line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for twenty-four (24) hours after pour.

- (5) Jointing, Floating and Finishing. , Soon after screening and while the concrete is still plastic, the Surface shall be floated with wood. cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed. Transverse expansion joints of one-half (1/2) inch thick and four (4) inches wide and five (5) feet long or premolded material shall be located every thirty (30) feet. Sidewalks must be marked off to make blocks five (5) foot square and be at right angles to the parallel lines. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half (1/2) by four (4) inch expansion joints of premolded material.
- (6) Slope.
  - a. All forms must be approved by the Town Highway Department before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of one-half (1/2) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool.
  - b. In cases where the grade exceeds fifteen percent (15%), steps or special construction shall be required to fit the existing conditions. Such details shall be prepared by the Town Engineer and approved by the Town Board before construction of the walk is started.
  - c. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.
- (7) Width and Thickness.
  - a. Residential walks shall be five (5) feet in width and four (4) inches in thickness, laid on the property line. The sidewalk that extends through the drive approach shall be a minimum thickness of six (6) inches.
  - b. Sidewalks in front of commercial or industrial establishments shall be not less than five (5) feet in width and five (5) inches in thickness except within driveway approaches where the minimum thickness shall be seven (7) inches.
- (8) Finishing. The concrete shall be struck off true to grade, finished smooth and given a broom finish. All edges shall be rounded. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours. No concrete shall be poured when the temperature may be expected to fall below thirty-five (35) degrees F. in any seventy-two (72) hour period or upon frozen subgrade,
- (9) Curing and Driving. As soon as any of the concrete work herein before mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "Impervious Coating," "Wet Fabric" or "Paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Spec. C156-44T, "Method of Test for Efficiency of Materials for Curing Concrete" shall be used. Said specifications are hereby adopted by reference as if fully set forth herein.
- (10) Cold Weather Requirements. When the temperature is less than forty degrees Fahrenheit (40°F), all concrete placed in the forms shall have a temperature between fifty degrees Fahrenheit (50°F) and seventy degrees Fahrenheit (70°F) and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.

- (11) Minor Repairs. Nothing in this Section shall apply to minor repairs, the cost of which does not exceed Five Hundred Dollars (\$500.00); Such repair, may be made at the direction of the Town Highway Department without notice, and the cost thereof may be charged to the abutting property owner in the same manner as provided in this Section for major repairs.
- (12) Variances.
- a. Location. Where the location of a sidewalk in accordance with the specifications established herein would conflict with the location of trees, or the root systems thereof, a written variance to the specifications may be issued by the Town Highway Department permitting the sidewalk to be located so as to eliminate or reduce such conflict. No variance shall be issued if the public safety or welfare would be adversely affected thereby. No fee shall be charged for such variance.
  - b. Material. Where the property owner desires to use nonstandard materials such as brick, aggregate or cobblestone, in the construction of a sidewalk, a written variance to the specifications established herein may be issued by the Town Highway Department to permit the use of such non-standard material. No variance shall be granted for any portion of a sidewalk which crosses or is part of a driveway, nor shall a variance be granted if the public safety or welfare would be adversely affected thereby. A condition of the granting of a variance under this subparagraph shall be the execution and recording of an indemnity agreement running with the land binding the property owner, his successors and assigns, holding the Town harmless from any liability, loss or damage resulting from the use of such nonstandard materials. An application fee shall be paid at the time of applying for the variance (see Section 16-1-4 Fees).
- (e) **Repair or Replacement of Defective Sidewalks.**
- (1) Sidewalks must be repaired if any of the following conditions exist:
    - a. A differential in elevation between any two (2) adjoining pieces of sidewalk of more than one (1) inch.
    - b. A cracked sidewalk if pieces are missing.
    - c. A settled or damaged sidewalk that crosses a driveway where a paved drive approach has been ordered by the property owner.
    - d. A settled sidewalk of more than two (2) inches. The depth of settlement will be determined by measuring from a line set parallel to street on adjacent unsettled walk to the lowest point of settled walk.
  - (2) All sidewalks brought to the attention of the Town through complaints shall be repaired if they meet the criteria established in Subsection (e)(1) above.
  - (3) Any sidewalk can be repaired or replaced if requested by the property, owner at his/her own expense.
- (f) **Illegal Sidewalks.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk and with one that is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located.

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

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

- (a) **Permit Required.**
- (1) Permit to Be Obtained. No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street,

public alley, public way, public ditch, public ground, public sidewalk or Town-owned easement within the Town of Waukesha without a permit therefor from the Building Inspector.

- (2) **Public Utilities.** Any public utilities i.e., municipal water, sanitary sewer, storm sewer, electric, gas, phone, cable, etc. installed in Town right-of-ways, easements or approved ways shall be made available to Town residents as directed by the Town Board as a condition of approval of any street opening permit.
- (3) **Fee; Emergency Excavation.** In the event of an emergency excavation for the protection of property, life, health, or safety and as authorized in Section 6-3-4(h), the application for the street opening permit is filed with the Building Inspector within two (2) regular business days of the excavation in accordance with Section 6-3-4(h). If the permit application for the emergency

Sec. 6-3-3 Streets and Sidewalks

excavation is not filed within two (2) regular business days, the application and review fee shall be doubled plus any actual Town expenses (see Section 16-1-4).

- (4) **Surcharge.** In addition to any permit fees or Town expenses, a surcharge shall be levied for any street opening which is in, or disturbs the paved portion of any public street, public alley, public way, public ground, public sidewalk or Town-owned easement within the Town of Waukesha. The surcharge shall be determined as follows:

<u>Age of the Final Paving</u>	<u>Surcharge</u>
New pavement to 1 year	5 times the permit fee
1 year to 2 years	4 times the permit fee
2 years to 3 years	3 times the permit fee
3 years to 4 years	2 times the permit fee
4 years to 5 years	1 times the permit fee
More than 5 years	No surcharge

- (b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his/her agent. The applicant shall submit to the Building Inspector, 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 Building Inspector shall determine if sufficient information is submitted.
- (c) **Exception.** The provisions of this Section shall not apply to Town excavation work done under the direction of the Town Board or Town Highway Department.
- (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-3-4(g) for pavement replacement.
- (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the Building Inspector and payment of a renewal permit fee (see Section 16-1-4). Permit renewals shall be issued at the discretion of the Building Inspector.
- (f) **Town Standards; Fees.**
  - (1) **Town Standards.** All street work shall be performed in accordance with the current standard specifications for street openings found in this Section and Section 6-3-4. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
  - (2) **Fee.** The fee for a street opening permit plus actual Town expenses shall be paid to the Town Building Inspector who shall issue his/her receipt therefor (see Section 16-1-4). If the street opening is made prior to the receipt of an approved street opening permit from the Building Inspector, the application and review fee shall be doubled plus any actual expenses (see Section 16-1-4).

- (g) **Insurance.** Prior to the commencement of excavation work, a permittee must furnish the Town satisfactory written evidence that he/she has in force and will maintain during the life of the permit and the period of excavation, general liability insurance in an amount not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) for property damage. This may be altered by the Town Board on small contracts. In the event the permittee claims to be self-insured, then he shall place on file with the Town Clerk a certificate of self-insurance in the sums set forth in this paragraph for personal injury and property damage and said permittee shall also execute to the Town an agreement to indemnify and save harmless the Town from any and all liability for claims, accidents to damages caused by reasons of operation under the permit, whether or not the same are caused by the negligence of the permittee, the Town of Waukesha, or any other person, firm or corporation.
- (h) **Cash Deposit or Letter of Credit.**
- (1) Before a permit may be issued for excavating or opening any street or public way where the estimated cost by the Building Inspector exceeds \$500.00, the applicant will be required to execute and deposit with the Town Clerk a cash deposit or letter of credit. If the road is paved with asphalt, the amount shall be \$5,000.00. If the road is paved with concrete, the amount shall be \$15,000.00. Both are conditioned that he/she will indemnify and save harmless the Town of Waukesha and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he/she will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Town Board for a period of one (1) year, and that he/she will pay all fines of forfeitures imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the Town Board 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 Town. Such statement shall also guarantee that, if the Town 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 Town. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Town shall repair the deficiencies and bill the permittee or property owner who receives benefit from the street opening for all labor, materials and equipment used plus twenty percent (20%) for administration. Failure to pay the bill within 30 days will allow the Town to special assess the benefiting property owner per Section 66.07, Wis. Stats.
  - (3) The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee and cash deposit or letter of credit to that effect with the Town in an amount determined by the Town Board.
  - (4) Whenever the Town Board shall find that any such work has become defective within one (1) year of the date of completion, it 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 Town Board 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 the Town will have the work completed. The cost for such work will be taken from the cash deposit or letter of credit amount and any excess billed to the contractor and benefiting property owner. Non payment will be special assessed to property taxes of benefiting property owner per Wis. Stats. 66.07.
  - (5) An annual cash deposit or letter of credit may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as

specified above and in the amount determined by the Town Board as necessary to adequately protect the public and the Town.

- (i) **Public Utilities.** All public utilities as defined in Section 66.06 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-3-4, any and all subparagraphs thereunder, and shall post a cash deposit or letter of credit as stated in (h) above.



**SEC. 6-3-4 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.**

- (a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and April 1st except where it is determined by the Building Inspector or its designee to be an emergency excavation.
- (b) **Protection of Public.**
  - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Building Inspection Department or its designee, 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 Building Inspection Department, 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 Town 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 of any kind.
  - (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his 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 Building Inspection 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 6-3-4(h).
  - (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-3-4(h).
- (c) **Pavement Removal.**
  - (1) Removal of existing pavement shall be neat and straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his/her work and in accordance with all applicable codes and regulations.
  - (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Building Inspection Department shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
  - (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement

replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

- (4) The Building Inspection Department may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.
- (d) **Excavation.**
- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
  - (2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.
- (e) **Backfilling.**
- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Building Inspection Department, is unsuitable backfilling for concrete poured roads shall be with slurry per the Department of Transportation Facilities Development Manual.
  - (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Building Inspection Department, hauled in.
  - (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
  - (4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted to a dry density of at least ninety-five percent (95%) of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.
  - (5) All excavations shall be subject to testing by the Building Inspection Department. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.
  - (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.
- (f) **Notice.** It shall be the duty of the permittee to notify the Building Inspection Department and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Building Inspection Department shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.
- (g) **Pavement Replacement.**
- (1) Backfill material shall be left below the original surface to allow for ten (10) inches of one and one-half (1½) inch traffic bond, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original Surface elevation shall be backfilled with compacted three-quarter (¾) inch crushed stone.
  - (2) Bituminous pavement shall be placed the full depth of the existing pavement or four (4) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of a two and one-half (2-1/2) inch base layer and a one and one half (1 1/2) inch top layer with each layer

compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.

- (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by Town officials, following the D.O.T. Facilities Development Manual.
  - (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter.
  - (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the Town Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.
  - (6) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three (3) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.
  - (7) When a street is reconstructed, utility laterals shall also be installed, including sump pump laterals, even if not immediately needed.
- (h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his/her agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall a ply for an excavation permit not later than the next business day and shall notify the Town office immediately.
- (i) **Excavation in New Streets Limited.** Whenever the Town Board determines to provide for the permanent improvement or repaving of any street, Such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after Such determination by the Town Board, the Building Inspector may notify each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. 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 Town Board or its designee, 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 terraces.
- (j) **Repair by Town.** The Town may elect to make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening. In the event such charges are not paid within ninety (90) days of actual notice of the same having been furnished the applicant and owner of the

premises for which said permit was issued, it shall become a lien against said premises and thereafter be assessed and collected as a special tax.

**SEC. 6-3-5 OBSTRUCTIONS AND ENCROACHMENTS.**

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant, except as provided in Subsections (b) and (c).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
  - (1) Temporary encroachments or obstructions authorized by permit under Section 6-3-6 of this Section pursuant to Sec. 66.045, Wis. Stats.
  - (2) Building materials for the period authorized by the Building Inspector which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
  - (3) Excavations and openings permitted under Sections 6-3-3 and 6-3-4 of this Code.
- (c) **Standards.** Property owners may place certain fixtures on sidewalks which immediately adjoin their property if the following requirements are met:
  - (1) The property must be located in an area used for commercial uses.
  - (2) 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.
  - (3) The placement of the fixture shall not significantly impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than three (3) feet at any point.
- (d) **Removal by Town for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any Town enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.
- (e) **Removal by Town for Obstruction and Encroachments Located in the Town Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if any enforcement official determines that a Town street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.
- (f) **Failure to Remove Obstruction.**
  - (1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) respectively, any Town 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 Town Clerk shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.
  - (2) The failure of the Town 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 Town expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

**SEC. 6-3-6 SNOW AND ICE REMOVAL.**

- (a) **Removal From Sidewalks.** The owner, occupant or person in charge of any parcel or lot which fronts upon or abuts any sidewalk 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, salt and/or other ice melting compound 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), Town law enforcement officers and other designated Town officials and employees shall take the actions prescribed herein. If a Town law enforcement officer or other designated Town officials and employees determine that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he/she 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 law enforcement officer or other designated Town officials and employees shall immediately cause the removal of the snow and/or ice. The law enforcement officer and other designated Town officials and employees shall serve or send a written notice to the last known address of the property owner notifying him/her that a hazardous condition existed which required immediate abatement.
- (c) **Snow and Ice Not to Encroach.** No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the Town 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.
- (d) **Enforcement.** The Town Constable and other designated Town officials and employees are hereby authorized and directed to enforce the provisions of this Section.
- (e) **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.
- (f) **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 Town causing the removal of said snow and/or ice.
- (g) **Expense.** An account of the expenses incurred by the Town 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. Said expenses shall be not less than the fee set by the Town Board nor more than the actual cost of wages and material required to remove said snow or ice whichever is greater (See fee listed in Section 16-1-4 Fees). 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 thirty (30) days after such costs and expenses are incurred and remain unpaid, the Town Clerk shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.615(5), Wis. Stats.

- (h) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances.

State Law Reference: Sections 66.60(16) and 66.615(3)(f) and (5), Wis. Stats.

#### **SEC. 6-3-7 TERRACE AREAS.**

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6-5-2(e).
- (b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Town Board or its designee. Statuary, structures, flag poles and other objects shall not be placed in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the Town whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

Cross Reference: Title 6, Chapter 5.

#### **SEC. 6-3-8 VAULTS.**

All vaults and cisterns under sidewalks shall be prohibited.

#### **SEC. 6-3-9 REQUESTS FOR IMPROVEMENTS.**

Requests or petitions by Town property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Town Board on or before September 15th to be considered for installation in the following year.

#### **SEC. 6-3-10 UNLAWFUL DUMPING ON STREETS.**

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

#### **SEC. 6-3-11 MAINTENANCE OF PUBLIC DITCHES.**

- (a) **Obstruction of Public Ditches.** No person shall in any manner obstruct, or cause to be obstructed, the free passage of water in any public gutter, ditch, culvert, swale or drain, or place, or cause to be placed, any rubbish, dirt, sand, gravel or any other matter or thing so that the same is likely to be carried by the elements into any public gutter, ditch, culvert, swale or drain.
- (b) **Responsibility to Maintain.** Every owner of land in the Town whose land abuts a public right-of-way on which is located a ditch, culvert, or swale shall be required to maintain, or have maintained, the ditch, culvert, or swale so as to permit and allow the unobstructed and free passage of water within the public ditch, culvert, or swale. The property owner shall be responsible for removing brush, weeds, cattails, and similar vegetation which obstructs the free flow of water within the ditch, culvert, or swale. In the event the property owner fails to maintain the ditch, culvert, or swale, as required under the terms of this section, and in the further

event that the Town is then required to remove brush, weeds, cattails, or similar vegetation so as to allow the unobstructed and free passage of water within the ditch, culvert, or swale, the costs and expenses incurred by the Town may be deemed a special charge for current services, as the term is defined in Wisconsin Statutes 66.0627, and the cost thereof may be assessed against the property owner in accordance with the provisions of Section 3-1-23 of the Town Code.

Sec. 6-3-12 Streets and Sidewalks

### SEC. 6-3-12 UNIFORM STREET ADDRESS SYSTEM.

- (a) **County System Applies.** The uniform address system of the Town of Waukesha shall be based on and become a part of a uniform address system for Waukesha County, as recommended by the County Board on November 12, 1957. All provisions herein relating to the establishment of a uniform address system for the county are hereby approved, and such provisions as are applicable to the Town of Waukesha, as more specifically set forth in the following Subsection, are hereby adopted by the Town of Waukesha Board.
- (b) **Establishment.** There is hereby established a uniform system of numbering properties fronting on all streets highways and rights-of-way in the Town of Waukesha, 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.
- (c) **Base Lines.**
  - (1) Base lines, as recommended for a uniform county address system, shall be used for determining the numbering in the Town of Waukesha. The east-west base line, 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 Milwaukee County and shall be the north or top line of Sections 31 to 36 inclusive in the Towns of Brookfield, Pewaukee, Delafield, and Summit. Its numerical designation shall be "1." 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 boundary of Waukesha County, and its numerical designation shall be "124."
  - (2) Each property south of the east-west base line and facing a street running in a southerly direction shall carry an address indicating its position west of the north-south base line and its position south of the east-west base 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 either north or south of the east-west base line and its position west of the north-south base line.
  - (4) Properties on diagonal or curvilinear streets shall be numbered the same as or similarly 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 similarly to, properties on westerly streets.
  - (5) Where the general direction of a diagonal or curvilinear street has a deviation of exactly forty-five (45) degrees, the direction of the street shall be considered as being northerly/southerly.
- (d) **County Grid System.** The county system of invisible rectangular blocks is established as a control grid in the following manner in conformity with the recommended uniform county 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 county the first six (6) sections, extending through the Towns of Menomonee Falls , Brookfield, New Berlin and Muskego, shall be divided into sixteen (16) blocks each. These invisible block lines shall have numerical designations of from "124" at the county line," to "220" at the western town lines of Muskego, New Berlin, Brookfield and Menomonee Falls. Westward through the remaining towns the sections shall be divided into ten (10) blocks each and the block lines shall have numerical designations of from "220" to "400", the latter being at the west edge of the county.

- (2) In a northerly direction from the east-west base line the first and second rows of sections shall be divided into eleven (11) blocks each, the third row into eight (8) blocks, and the fourth row into nine (9) blocks. From and including the fifty row northward to the north county line the sections shall be divided into eight (8) blocks each. These invisible block lines shall have numerical designations of from "1", the base one, to "96" at the north county line.
  - (3) In a southerly direction from the east-west base line the first row of sections shall be divided into thirteen (13) blocks and the second row into nine (9) blocks. From and including the third row southward to the south county line the sections shall be divided into eight (8) blocks each. These invisible block lines shall have the numerical designations of from "1", the base line to "111" at the south county line.
- (e) **Numbering.**
- (1) One hundred (100) 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," "S", or "W", followed by the number of the appropriate block line.
  - (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 blockline 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 of the block shall be the blockline numbers of its south and its east boundaries.
  - (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 the Subsection above.
- (f) **Point of Reference for House 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 case of farm residences or other residences or business places situated on large acreage or away from other development the point of determination shall be the intersection of the center line 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.
- (g) **Street Names.**
- (1) Streets which are extensions of streets in Milwaukee County shall bear the name by which they are known in that county accepting that directional prefixes, if any, shall be dropped. No directional prefix shall be used on any local street.
  - (2) All numerical street names shall be abandoned and other names substituted.
  - (3) A list shall be compiled by the Building Inspector of all existing street names in the Town of Waukesha 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 Town of Waukesha 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 Town Board shall have authority to accept or reject proposed names of new streets and, where there is clearly a conflict or duplication in existing names, may direct the changing of one or more such names so that conflict or duplication may be minimized. Such Board, 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.



- (h) **Plat Book.** For the purpose of facilitating the establishment and continuing workability of a uniform address system in the Town of Waukesha there shall be prepared and kept on file in the office of the Town Clerk a plat book showing the proper addresses of all residences and places of business within the Town. It shall be the duty of the Town Clerk 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.
- (i) **New Subdivisions.** Within thirty (30) days after the final approval of any new Subdivision or other division of land, the Building Inspector shall assign addresses to each new building site. Record shall be kept of the assignments and a copy shall be provided for the developer at his/her request.
- (j) **Affixing 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 date of assignment or from the date of initial occupancy.
  - (3) Numbers shall be supplied by the Town and the owner shall pay the cost established by the Town Board.
- (k) **New Buildings.** Whenever any residence or place of business shall be erected in the Town of Waukesha 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 within thirty (30) days thereafter to install the number on the building or premises.
- (l) **Certified Survey Maps.** Certified survey maps shall conform to the provisions of this Section and Title 12 of this Code of Ordinances.
- (m) **Street Numbers to Be Displayed.** The owner, occupant or agent in charge of the premises shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him the official street number assigned to that building as provided in (a) hereof displayed in one or both of the following manners at the option of the property owner;
  - i. **Address Tiles:** The physical numbers provided herein shall be not less than two and one-half (2-1/2) inches high on a background of not less than three (3) inches. The street address numbers shall be installed facing the road your property is addressed from.
  - ii. **Address Flags:** The flags shall be made of heavy metal aluminum, two sided, 20" x 9" with a 3/8 border. Printed white lettering, at the top 1" letters "Town of Waukesha", in the center 3" alpha numeric characters of the full house number without spaces, and at the bottom 1" letters with the street name. The signs shall use official DOT highway fonts and red reflective background. The flag shall be installed perpendicular to the road. If property is at the end of a cul-de-sac the flag shall be displayed parallel to the road.

Posts shall be not less than four feet and not more than five feet above the surface of the driveway. The post shall be for address sign only. No other signs shall be placed on the post. Back edge of address flag or address tiles shall be at the back edge of the road right-of-way. It must not be more than 6 feet from the edge of the driveway.

If your driveway does not enter from the road your property is addressed from, address tiles and/or address flags should be placed facing said road and centered in line with the main building. Such posting will make your address clearly visible, coming from either direction, down the road. It must be kept clear at all times of vegetation. House numbers installed on a mailbox, near the doorway, or any other place, is not in compliance with the Town Code.

- (n) **Noncompliance.** The Town shall install street numbers, as required under the provisions of subparagraph (m), where written notice of noncompliance has been given to the property owner or occupant of any property, and the property owner has failed to install the numbers within ten (10) days of the date of issuance of the written notice. Non-compliance will result in a fine of Fifty Dollars (\$50.00), and a special charge of Fifty Dollars (\$50.00) shall be assessed against each property for the installation of the street numbers by the Town, and that special charge shall be placed on the tax bill and collected with other real estate taxes levied by the Town. Town property owners/occupants who wish to install street numbers, as required by subparagraph (m), may pick them up at the Town Hall. The cost of a complete set of house numbers in a frame shall be established in Section 16-1-4, Fees. The cost of steel channel post with mounting hardware shall also be listed in Section 16-1-4, Fees.

### **SEC. 6-3-13 USE AND/OR LEASE OF TOWN EQUIPMENT.**

The Town of Waukesha shall not permit any person to use and/or lease any Town equipment, including heavy equipment, for private purposes.

Sec. 6-3-14 Streets and Sidewalks

### **SEC. 6-3-14 DIRT AND DEBRIS ON STREETS.**

- (a) In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway, or public ground in the Town of Waukesha.
- (b) The owner, occupant, or person in charge of private premises, which places, causes or permits to remain, any of said materials upon any street, sidewalk, alley, drainageway or public ground in the Town of Waukesha shall immediately remove said materials at no cost to the Town.
- (c) (1) The operator of any motor vehicle which tracks, drops, or places any materials upon any street, sidewalk, alley, drainageway or public ground in the Town of Waukesha shall immediately stop and remove said materials at no cost to the Town.
- (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator ;causes the deposition of any materials upon any street, sidewalk, alley, drainageway, or public ground in the Town of Waukesha, and which said operator fails to remove said materials as required in Section (c) above, the owner, occupant, or person in charge of said work on said private premises, shall remove said materials at no cost to the Town.
- (d) In the event the materials are not removed from the street in accordance with Subsections (b), (c), and/or (c)(1) above, the Town shall cause the removal of such materials and shall charge said operator, or said owner, occupant, or person in charge of said work the cost of the removal. In the event the person charged for said removal fails to pay such costs within thirty (30) days, it shall be entered on the tax roll as a special tax against said property.
- (e) In addition to the costs of removal, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1-1-6. Each day that said materials are not removed, shall constitute a separate offense under this Section.

### **SEC. 6-3-15 DAMAGES TO STREETS AND PUBLIC PROPERTY.**

- (a) In the interests of public safety, health, general welfare, community appearance, and efficiency of operation, it shall be unlawful in any way to cause damage, injury, or destruction, to any portion or any fixture of any street, sidewalk, alley, drainageway, or public ground in the Town of Waukesha.

- (b) The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the Town of Waukesha shall immediately stop and notify the Police Department that he/she has caused such damages and shall correct said damages within ten (10) days at no cost to the Town.
- (c) (1) In the event the operator of any motor vehicle or equipment which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the Town of Waukesha, fails to report Such damage, it shall be considered a violation of this Section.
- (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the damage of any portion or fixture of any street, sidewalk, alley, drainageway, or public ground in the Town of Waukesha, and which said operator fails to correct said damages as required in Section (c) above, the owner, occupant, or person in charge of said work on said private premises, shall correct said damages at no cost to the Town.
- (d) In the event the damages are not corrected within ten (10) days, the Town may cause the correction of said damages and shall charge the operator, or owner, occupant, or person in charge of said property the cost of correcting the damage. In the event the said costs remain unpaid following thirty (30) days, it shall be entered on the tax roll as a special tax against said property.

Sec. 6-3-15 Streets and Sidewalks

- (e) In addition to the costs to correct damages, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1-1-6. Each day after said ten (10) days that the damages are not corrected, shall constitute a separate offense under this Section.

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

**SEC. 6-3-16 ADOPTION OF STATE STATUTES CONCERNING ROADS.**

The statutory provisions in the following enumerated sections of the Wisconsin Statutes, exclusive of any Provisions therein relating to the penalties to be imposed or the punishment for violation of said statutes, are hereby adopted and, by reference, made a part of this Section. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Section. Any future amendments, revisions or modifications of the statutory regulations incorporated herein are intended to be made part of this Section.

- |     |             |   |
|-----|-------------|---|
| (a) | Sec. 80.32  | Highways, Discontinuance of.                                  |
| (b) | Sec. 80.47  | Streets, Right of Abutting Owners.                            |
| (c) | Sec. 81.15  | Highways, Liability for Defects.                              |
| (d) | Sec. 86.03  | Trees, On and Adjacent to Highways.                           |
| (e) | Sec. 86.04  | Highway Encroachments   |
| (f) | Sec. 86.05  | Highways, Duty to Restore Entrances.                          |
| (g) | Sec. 86.06  | Highways, Closing to Travel.                                  |
| (h) | Sec. 86.07  | Highways, Depositing Rubbish or Digging In.                   |
| (i) | Sec. 86.105 | Driveways, Snow Removal.                                      |
| (j) | Sec. 86.19  | Highway Signs, Regulation, Prohibition.                       |
| (k) | Sec. 146.13 | Highways and Surface Waters, Discharging Noxious Matter Into. |

**SEC. 6-3-17 ACCOMMODATION POLICY.**

The rules and regulations of the Wisconsin Department of Transportation with reference to "Accommodation of Utilities on Highway Rights-of-Way" now existing and as may be subsequently amended is adopted by reference and made a part of this Chapter.

**SEC. 6-3-18 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS; TREE REMOVAL; FENCES.**

(a) **Obstruction of Intersections.**

- (1) Purpose. No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more roads, streets or alleys in the Town of Waukesha any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (2) Traffic Visibility. On a corner parcel, no fence, wall, hedge, planting or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner parcels and a line joining the points along, said street lines thirty (30) feet from the point of intersection. In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

Sec. 6-3-18 Streets and Sidewalks

(b) **Obstruction of Signs.** 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 in the Town. It shall be the duty of every owner of such tree, brush, shrubbery or vegetation to remove such obstruction.

(c) **Abatement Procedure.** 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 Town Clerk shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specified, it shall be lawful for the Town to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof shall be assessed to the owner.

(d) **Trees on and Adjacent to Highway.**

- (1) Removal of Fallen Trees. If any tree falls from adjacent land into any highway, the owner or occupant of the land shall immediately remove the tree from the highway. If the tree is not removed by the property owner following notice from the Town, the Town may remove from any highway any fallen tree or trees therein and charge the cost thereof to the property owner pursuant to Sec. 66.60(16), Wis. Stats.
- (2) Planting Trees and Shrubs in Highway. Any person owning or occupying land adjoining any highway may, with the approval of the Town Board, plant, cultivate and maintain trees, shrubs or hedges on the side of the highway continuous to and within ten (10) feet of his land. Such trees, shrubs or hedges shall be cut or removed only by the owner or occupant of the abutting land or by the public authority having control of the highway.

(e) **Cutting or Injuring Trees on Highway.** No person shall cut down, break, girdle, bruise the bark or in any other manner injure any public or private trees, shrubs or hedges growing within the highway, except as the owner thereof or the public authority maintaining the highway may cut down, trim and remove trees, shrubs and hedges for the purpose of and conducting to the benefit and improvement of the owner's land or the highway facility. When it is necessary for trees in a road right-of-way to be removed, the adjacent property owner shall have a right of first refusal to have the wood.

State Law Reference: Sec. 86.03, Wis. Stats.

## **SEC. 6-3-19 PLACEMENT OF MAILBOXES.**

Rural mailboxes are prohibited on the right-of-way, of all highways within the Town of Waukesha except as hereinafter provided:

- (a) Mailbox installations are approved only if they are of a construction or design approved by the United States Postal Service or previously approved by the Postmaster.

Rural mailboxes shall not be constructed of concrete, brick, masonry block, iron or similar materials that will be an obstruction in the right-of-way as determined by the Town Board. Property owners may submit mailbox designs to the Town Board for review in keeping with this Section. Mailboxes shall be designed to break away and cause limited damage to motor vehicles.

## **CHAPTER 4**

### Driveways

- 6-4-1 Driveway Permits; Culvert Requirements
- 6-4-2 Driveway Location, Design and Construction Requirements
- 6-4-3 Maintenance of Private Driveways

## **SEC. 6-4-1 DRIVEWAY PERMITS; CULVERT REQUIREMENTS.**

- (a) **Purpose.**
  - (1) For the safety of the general public, the Town of Waukesha shall determine the location, size, construction and number of access points to public roadways within the Town limits. It is the Town'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. It is also the purpose of this Chapter to ensure that adequate means of providing, police and fire protection is available to all residents of the Town of Waukesha. To accomplish that purpose, it is the intent of the Town Board to require property owners to maintain private driveways in a manner which will not inhibit or impair the Town's ability to provide police, fire and emergency services to all Town residents.
  - (2) As used herein, the term "private driveway" shall mean any easement area used as a means of ingress or egress to a private residence where the private residence does not have direct access to a public right-of-way.
- (b) **Culvert Requirement.** No person shall construct any driveway or private road in a public right-of-way of the Town of Waukesha without having a culvert installed in full compliance with Section 6-2-1(b). Included within the scope of this requirement are commercial driveways. All Culverts will be installed by the Town.
- (c) **Driveway Permit Required; Application; Fee; Damage to Drainage.**
  - (1) Permit Requirement. No person shall locate, establish, or construct a private driveway, road, or other access from a private property line to the traveled portion of any public Town road without first filing an application and obtaining a driveway permit from the Town of Waukesha.
  - (2) Application. Application for such permit may be made to the Building Inspector. The request for such permit shall be in writing signed by the owner of the real estate affected or his/her agent and shall include design specifications and a drawing depicting the location and orientation of the proposed culvert in relationship to the real estate involved and the adjacent road, street, or highway.

- (3) **Review.** The Building Inspector or his representative shall review all applications using this Chapter and the data and findings from the Driveway Inspection Report as shown in Section 6-4-2 in issuing driveway and culvert permits.
  - (4) **Fee.** At the time of making application for a driveway permit, the applicant shall pay a fee as established by the Town Board (see Section 16-1-2 Fees).
  - (5) **Vehicular Traffic Over Drainage.** No person shall operate any vehicle over, along or into any drainage adjacent to any public street for purposes of ingress or egress to any land adjacent to such public street except over established driveways constructed, and maintained as a means of ingress and egress to said lands.
  - (6) **Culvert Installation.** The property owner benefiting from the installation of the culvert shall be responsible to pay for the installation by the Town to the approved grade established by the Town Board. (See Section 6-2-1(b).  
Re-certification of the culvert's grade may be required by the Building Inspector to verify compliance with this Chapter.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
- (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Town road or street, or for any other purpose.
  - (2) The Town, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the Town road or street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.
  - (3) The permittee, his/her successors or assigns, agrees to indemnify and hold harmless the Town of Waukesha, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
  - (4) The Town does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Town road or street.

**SEC. 6-4-2 DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.**

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
  - (1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. Driveways shall be 30 feet away from street intersections as measured from the lot line. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least fifteen (15) feet apart except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
  - (2) **Driveway Approach.** A hard surface shall be installed by the property owner, utilizing Portland Cement (concrete), bituminous asphalt or other similar material with approval of the Town Board for the area between the lot line to the edge of the Town road pavement. The area from the edge of the road shall be pitch the same as the road for 3 feet from the edge of the Town road. The property owner is responsible to have the grade at the driveway surface to match the finished

Town road elevation. The property owner has one (1) year from the date of occupancy to install the hard surface in the driveway approach. The ditch and occupancy bond will not be returned until the driveway approach is hard surfaced.

- (3) Number. The number of driveways to serve an individual, residential, or commercial property fronting on a street shall be a maximum of two (2), except where deemed necessary and feasible by the Town Board for reasonable and adequate service to the property, considering the safety, convenience and utility of the street, and driveways may be approved for commercial and other use areas where deemed reasonable.
  - (4) Island Area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (5).
  - (5) Drainage. The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the road edge or face of the curb, and under no circumstances shall such driveway apron extend into the gutter area where there is curbing. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way. All driveways and parking lots shall be graded in such way that storm water is directed into the road drainage system and not across the paved road. (See Diagram Culvert/Driveway Installation)
  - (6) Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with and with Town Board approval.
    - a. The filling or draining shall be to grades approved by the Town Engineer and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
    - b. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Town Board.
  - (7) Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Town Board necessary before any utility may be relocated and the driveway installed.
  - (8) Variations. Any of the above requirements may be varied by the Town Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.
- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving commercial or industrial establishments:
- (1) Width of Drive. No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty-five to forty-five (35-45) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board in its discretion may permit a driveway of additional width.
  - (2) Angular Placement of Driveway. The angle between the center line of the driveway and the curb line or road edge shall not be less than 70°.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:

- (1) Width. Unless special permission is first received from the Town Board, a residential driveway shall be no greater than thirty-three (33) feet wide at the curb line or pavement edge.
- (2) Angular Placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line or pavement edge.
- (d) **Appeal from Permit Refusal**. Any person feeling himself aggrieved by the refusal of the Town Board to issue a permit for a private driveway may appeal such refusal to the Town Board within twenty (20) days after such refusal to issue such permit is made.
- (e) **Prohibited Driveways and/or Filling**.
  - (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Town of Waukesha except as permitted by this Section. As used herein the word "structure" includes retaining walls above the grade of the driveway, fences, decorative or ornamental structures and private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
  - (2) No driveway shall be closer than thirty (30) 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 Town for effective traffic control or for highway signs or signals.
  - (3) The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
  - (4) Drainage from driveways shall run into adjacent ditches and not onto the road pavement.
  - (5) Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the Town.
  - (6) The placement of lawn sprinkler pipes in a road right-of-way is prohibited.

Cross-Reference: Section 6-2-1(b)

**SEC. 6-4-3 MAINTENANCE OF PRIVATE DRIVEWAYS.**

- (a) **Duty to Maintain**. Any property owner who does not have direct access to a public right-of-way shall maintain a private driveway from the nearest public right-of-way so that the Town may provide police and fire protection, and other emergency services, to all occupants of the property. Specifically, but not by way of limitation, the property owner shall:
  - (1) Cause the private driveway to be constructed, surfaced and maintained in a manner sufficient to provide access to all structures on the property for all emergency vehicles, including police and fire vehicles; and
  - (2) Remove all brush and trees on the driveway, or adjacent to the driveway area, and to remove all accumulations of snow or ice so as to permit access to the property, as necessary to respond to fire or emergency situations which may occur on the property. All brush and tree branches shall be cleared to provide a minimum of fourteen (14) foot vertical clearance and a fifteen (15) foot horizontal clearance as measured from the center line of the road surface or pavement.
- (b) **Failure to Maintain**. In the event the property owner fails to maintain a private driveway in accordance with the provisions of this Chapter, the Town shall notify the property owner of the failure to maintain and direct the property owner to cure any deficiency within thirty (30) days after the notice is issued. In the event the property owner fails to comply with the terms of the notice, the Town may contract with private parties to improve the driveway in accordance with the notice given the property owner, and the cost thereof shall constitute a lien on the property and shall be placed on the property tax bill for the next preceding year in accordance with the



provisions of Sec. 66.60, Wis. Stats. In addition to the foregoing, the Town may seek injunctive relief to compel the property owner to comply with the terms of this Chapter and any notices issued hereunder.

## CHAPTER 5

### Trees and Shrubs

6-5-1	Statement of Policy and Applicability of Chapter
6-5-2	Definitions
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#### SEC. 6-5-1 STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER.

- (a) **Intent and Purpose.** It is the policy of the Town of Waukesha 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 Town 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 welfare of the Town; 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 Town against the spread of disease, insects or pests.
- (b) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

#### SEC. 6-5-2 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 Town of Waukesha except the terrace areas.
- (c) **Public Trees and Shrubs.** "Public Trees and Shrubs" means all trees and shrubs located or to be planted in or upon public areas.
- (d) **Public Nuisance.** "Public Nuisance" means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (e) **Boulevard or Terrace Areas.** "Boulevard or Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter.

"Boulevard" shall have the same meaning as "terrace." Where there are 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) **Forester.** Person or Town employee designated by the Town Board as authorized to carry out provisions of this Chapter.

#### **SEC. 6-5-3 AUTHORITY OF TOWN FORESTER TO ENTER PRIVATE PREMISES.**

- (a) The Town Board has designated the Town Highway Department to perform the duties of Forester under Chapter 27, Wis. Stats., and may authorize such Forester to perform the duties and exercise the powers imposed on the Town Board by this Chapter.
- (b) The Town 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. 6-5-4 INTERFERENCE WITH THE TOWN FORESTER PROHIBITED.**

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

#### **SEC. 6-5-5 ABATEMENT OF TREE DISEASE NUISANCES.**

- (a) **Dutch Elm and Other Tree Diseases a Public Nuisance.** Whereas the Town Board has determined that there are trees growing on public and private premises within the Town, 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 Town, 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 Town Board 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" in this Chapter means:
    - a. Fatal or deleterious tree diseases.
    - b. Elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.); Dutch Elm disease.
    - 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 or private place, including the terrace strip between curb and lot line.
  - g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
- (2) "Public property" means owned or controlled by the Town, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
- (3) "Person" means person, firm or corporation.
- (c) **Abatement of Nuisances; Duty of Forester.**
- (1) Following authorization by the Town Board, the Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
  - (2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the Town, the Forester 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 Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, the Forester shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if the owner 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 Town, the Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Town.
  - b. If, after the hearing is held pursuant to this Subsection, it shall be determined by the Town Board that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(d) **Spraying.**

- (1) Whenever the 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, the Forester may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide, following prior authorization by the Town Board.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the Forester shall also notify the Town Highway Department 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 Town shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (c)(3).

**SEC. 6-5-6 ASSESSMENT OF COSTS OF ABATEMENT.**

- (a) **Public Premises.** The entire cost of abating any public nuisance or spraying any elm tree, or part thereof, when done at the direction of the Forester shall be borne by the Town as to any growth, tree or shrub located upon property owned by the Town. The abating of a public nuisance or spraying elm trees or elm wood located upon a terraced strip between the lot line and the curb shall be considered private property.
- (b) **Private Premises.** The cost of abating a public nuisance or spraying diseased trees located on private premises when done at the direction and under the supervision of the Forester shall be assessed to the property on which such nuisance, tree or wood is located as follows:
  - (1) The 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 Town Board on or before October 15, of each year.
  - (2) Upon receiving the Forester's report, the Town Board, or a designated standing committee thereof, 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 Town Board, or a designated standing committee thereof, 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 Town 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 Town 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. 6-5-7 TRIMMING.**

- (a) Any person growing a tree, plant or shrub on any private property abutting on public streets or public places shall:
  - (1) Trim them so as not to be a hazard to persons using the streets or to interfere with the proper lighting of the streets.
  - (2) Treat or remove any tree, plant or shrub which the Town Forester shall determine is diseased or insect-ridden or a hazard to persons using the streets.
  - (3) Remove and refrain from planting, any tree, plant or shrub designated by the State Department of Agriculture and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest.
- (b) Owners of any property may arrange to have any tree, plant or shrub sprayed, trimmed or removed by the Town and pay for such service at the rates established by the Town Board.
- (c) Trees and shrubs standing in or upon any boulevard, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The Town Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (d) The necessity of the pruning may be determined by the Town Forester.
- (e) Clearance from sidewalk to lower branches shall not be less than seven (7) feet. All trees standing upon private property in the Town, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than seven (7) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (f) Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require authorization from the Town Forester.

**SEC. 6-5-8 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 Town Forester in the case of a terrace-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
  - (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
  - (2) 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 Town may tie temporary signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
  - (6) Cause or encourage any fire or burning near or around any tree.
- (b) **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 Town Forester.
- (c) **Interference With Forester.** No person shall:
- (1) Interfere with or prevent any acts of the Forester or his agents or employees while they are engaged in the performance of duties imposed by this Section.
  - (2) Refuse to permit the 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.** Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

#### **SEC. 6-5-9 APPEAL FROM DETERMINATIONS OR ORDERS.**

Any person who receives a determination or order under this Chapter from the Town Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances and Chapter 68, Wis. Stats., to the Town Board within seven (7) days of receipt of the order and the Town Board shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Town Board may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Town 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 Board shall file its written decision with the Town Clerk.

#### **SEC. 6-5-10 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.