

TITLE 6

Public Works

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CHAPTER 1

Grades

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SEC. 6-1-1 ESTABLISHMENT OF GRADES.

(a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council, upon the recommendation of the City Engineer, and the same recorded by the City Clerk-Treasurer in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.

(b) **New Sidewalk Grade.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Common Council, or its designee, shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

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

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

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

SEC. 6-1-3 REGULATION AND GRADES OF UNDERGROUND UTILITIES.

(a) **Approval of Location.** The location of any and all such underground construction must have the approval of the Common Council, Director of Public Works or Public Works Committee.

(b) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Common Council, Director of Public Works or Public Works Committee before construction can begin.

(c) **Inspection.** On request of the Common Council, Director of Public Works or Public Works Committee, the utility company must provide opportunity for City officials to check any construction before it may be covered.

(d) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction at the election of the Common Council, Director of Public Works or Public Works Committee, and in accordance with its directions and specifications.

(e) **Establishment of Grade.** At the request of the utility company, the Common Council, Director of Public Works or Public Works Committee shall, at the City's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.

(f) **Emergency.** In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Common Council, Director of Public Works or Public Works Committee as soon thereafter as is reasonably possible.

(g) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the City may proceed to place the surface of the ground or street

in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 6-2-3 and 6-2-4.

(h) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

CHAPTER 2

Streets and Sidewalks

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SEC. 6-2-1 REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.

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

SEC. 6-2-2 CONSTRUCTION AND REPAIR OF SIDEWALKS.

(a) **Statutory Provisions Adopted.** The provisions of Section 66.0907, Wis. Stats., relating to the construction and repair of sidewalks, so far as applicable to the City of Plymouth, are hereby adopted by reference.

(b) **Where Sidewalks Required.** Concrete sidewalks of at least four and one-half (4½) feet in width shall be constructed on both sides of the street in the right-of-way with the inside edge one (1) foot off property line, in the areas described as follows with the exception of the specific exemptions stated herein:

- (1) Residential and Business Districts. In all residential and business districts:

a. Lots in developed residential and commercial districts of the City that abut on a public street upon which sidewalks are not already constructed shall be required to have missing walks constructed. [For Purposes of this Subsection, developed shall be defined as fifty percent (50%) of the lots within a given block being built upon and ready for occupancy]. However, the Common Council may require sidewalks for access to public buildings or in instances where the public need dictates in areas of less than fifty percent (50%) development.

b. Lots in newly-annexed developed districts of the City that abut on a public street upon which sidewalks are not already constructed shall be required to have sidewalks constructed thereon within one (1) year after annexation unless the Common Council determines that earlier construction is required to protect the public safety and welfare due to the presence of unusual hazards in a particular location.

c. Any residential or commercial buildings completed on a lot abutting on a public street upon which sidewalks meeting City specifications are not already constructed, shall install sidewalks within one hundred twenty (120) calendar days after completion of the foundation walls, unless a written extension of up to eight (8) months to allow for poor weather conditions beyond the owner's control is obtained from the Director of Public Works.

(2) Major Thoroughfares and Collector Streets. Along the major and secondary thoroughfares and collector streets, regardless of zoning classification when the City Council deems such construction necessary to safeguard the safety and welfare of the public. Generally, but not necessarily, excepted would be highways abutting:

- a. Agricultural zones;
- b. Cemeteries;
- c. Fairgrounds;
- d. Vacant land extending outward to limits of City and not situated between built-up areas that could be expected to generate pedestrian traffic;
- e. Areas where land is intermittently in the township and the City so as to make impossible the construction of a continuous sidewalk for at least five hundred (500) feet;
- f. Outlying industrial zones where factory workers generally reach their place of employment by motor vehicle.

(3) Areas Exempt From Sidewalk Requirement.

a. Where houses have sidewalks on the front side and no house faces a street, no walk shall be required on any such block.

b. No self-contained subdivision shall be required to have sidewalks. (Self-contained subdivisions shall be defined as one having only one point of ingress or egress, unless seventy-five percent (75%) or more property owners petition or seventy-five percent (75%) or more request construction of a sidewalk).

c. All properties on dead-end streets and cul de sacs where no pedestrian traffic is generated shall be exempt from construction of sidewalks unless seventy-five percent (75%) or more of the affected property owners petition for installation of sidewalks.

d. The minimum vehicle volume warrant for installation of sidewalks would be six hundred (600) cars per day.

(c) **Construction Exemption Due to Physical Characteristics.** The Director of Public Works, with Council approval, is empowered to exempt properties from such construction when upon investigation he determines that sidewalk construction is physically impracticable due to the following circumstances:

- (1) Nature of terrain;
- (2) Insufficient right-of-way;
- (3) Insurmountable engineering problems;
- (4) Safety hazards that would arise by encouraging pedestrian traffic in dangerous areas such as along railroad tracks.

(d) **Variations in Sidewalk Alignment Requirements.** The Director of Public Works, with Council approval, is empowered to exempt properties from the requirement that the sidewalk be constructed with the inside edge one (1) foot off the property line when upon investigation he determines that:

- (1) Specimen healthy trees of twelve (12) inches or greater diameter would be destroyed.
- (2) Sidewalk alignment within a block would be different from existing walks within said block.
- (3) Severe grade problems would result.

(e) **Compliance Time Extensions.** The Director of Public Works is hereby empowered to postpone construction of walks required under Subsections (b)(1)a and b and (b)(2) above until the time of street construction when a lot or lots abut an unimproved (lacking curb and gutter) street that is expected to be

scheduled for improvement at some future date and when, in his opinion, a delay of construction to coincide with street construction would be necessary.

(f) **Standard Specifications for Sidewalks.**

(1) General. Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the Engineering Division of the Public Works Department.

(2) Subgrade. Preparation of the area on which concrete sidewalk is to be built shall include grading to an elevation at least three (3) inches below the bottom face of the concrete section to be placed. Such grading shall be carried to a width sufficient to permit proper forming of the sidewalk. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. Where fill is required to attain aforesaid elevation, such fill shall be well compacted sand-gravel or crushed stone material. There shall be placed on the graded section a minimum of three (3) inches of granular base course under all sidewalk construction, such granular base to be of crushed gravel or crushed limestone, thoroughly compacted by means of pneumatic, mechanical or hand tamping equipment. Said compaction shall be uniform across the entire width the base course and under the forms as well.

(3) Concrete Specifications.

a. All sidewalks built in the City shall be constructed with air-entrained Portland Cement concrete having a minimum of six (6) bags of cement per cubic yard of concrete. Concrete shall be proportioned by weight, so that for every ninety-four (94) pounds of cement, there shall be provided approximately five hundred-thirty (530) pounds of clean, sound aggregates, of which thirty-five percent (35%) to forty-five percent (45%) shall be fine aggregate. The maximum amount of mixing water provided in the mix shall be six (6) gallons of water per ninety-four (94) pound bag of cement. The aforesaid quantities of aggregate are oven dry materials having a bulk specific gravity, the weights of such aggregates shall be adjusted in the ratio that the actual specific gravity of such materials bears to 2.65.

b. The course aggregate used for said concrete may be either broken stone or natural gravel which shall be clean, hard, durable washed material containing no vegetable or other deleterious matter. Said coarse aggregate shall contain no more than one percent (1%) total chert by particle count. One hundred percent (100%) of the coarse aggregate shall pass a one (1) inch screen, with good grading of intermediate sizes.

c. Fine aggregate used in the mix shall consist of clean, hard, durable particles of sand, free from all organic or other deleterious matter. One hundred percent (100%) of the fine aggregate shall pass a one-fourth (1/4) inch screen and ninety-five percent (95%) shall be retained on a one hundred (100) mesh screen, with the material well graded between large and small particles.

d. Air-entrained concrete shall be produced through the use of air-entrained Portland Cement or by an admixture used with normal Portland Cement, or by a combination of the two. The volume of entrained air in the freshly mixed concrete shall be not less than four percent (4%) nor more than seven percent (7%).

e. The sidewalk builder shall have delivery tickets for ready-mix (transit mixed) concrete available at all times for examination by the City's sidewalk inspector as to the mix proportions and type of concrete. Such inspector shall also be permitted to make compression test cylinders or test for entrained air volumes at any time during the pouring of any concrete sidewalk within the City, to see that proper standards are being maintained.

- (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. Forms shall be thoroughly cleaned and oiled before concrete is placed against them. No concrete shall be placed within the forms until they have been inspected by the Sidewalk Inspector or a representative of the Engineering Division. Concrete of the quality and composition specified above shall be placed only on a moistened base course, such wetting to be done immediately

before placing concrete. The concrete shall be deposited to the proper depth and consolidated and spaded sufficiently to produce a dense mass, free of voids and providing a smooth face against the forms.

- (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. All contraction or "blind" joints in the sidewalk construction shall be cut to a minimum depth of one-fourth ($1/4$) the thickness of the concrete slab, or one (1) inch, either by sawing or by the use of a suitable tool or edger while the concrete is still plastic. Before a license is issued to any sidewalk builder, he will be required to show evidence of possessing the proper spacing tools to accomplish this joint requirement. The spacing of construction joints shall be such that no block of sidewalk is larger than thirty-six (36) square feet in area. One-half ($1/2$) inch thick "Performed Expansion Joint Filler" shall be placed in all sidewalk construction at property lines, at transverse joints no more than forty (40) feet apart, between sidewalk approaches and back of curb, on the approach sides of each corner block at street intersections, and at sharp changes in thickness of slab such as at the ends of driveway sections where the walk thickness changes from four (4) inches to six (6) inches.
- (6) Slope. All forms must be approved by the Sidewalk Inspector or Engineering Department representative before concrete is poured. To provide adequate drainage, sidewalk shall slope toward the curb at a minimum rate of one-fourth ($1/4$) inch, but not more than three-fourths ($3/4$) inch, per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth ($1/4$) inch radius edging tool. Sidewalks shall be constructed within the limits of the street, and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.
- (7) Width and Thickness. Sidewalks shall be not less than four (4) inches thick, except within driveway approaches where the minimum thickness shall be six (6) inches. All sidewalks constructed or reconstructed in the City of Plymouth shall be four and one-half ($4\frac{1}{2}$) feet in width except that where existing walks are greater width than four and one-half ($4\frac{1}{2}$) feet, the City Engineer, or his agent, (Sidewalk Inspector) may order the new walk to be reconstructed to conform to the width of the existing walks.
- (8) Finishing. The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges

and joints shall be given a finish with a one-quarter ($\frac{1}{4}$) inch radius edging tool. Dry cement shall not be spread on a wet surface to take up excess water. Finishing operations shall be delayed until water has disappeared. Sprinkling or wetting of the concrete to delay setting-up of time shall not be permitted, and the addition of water to the surface after concrete has been placed may be cause for condemnation of the new work by the sidewalk inspector. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Walks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.

- (9) Curing and Drying. 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. The curing operation shall be continued for at least seventy-two (72) hours after the placing of concrete and such curing operation shall be sufficiently effective to prevent the loss of more than fifteen percent (15%) of the water in the concrete mix. Care shall be taken to see that the work is uniformly covered by the curing method employed including any sawed joints in the work.
- (10) Cold Weather Requirements. When the temperature is less than forty (40) degrees F., all concrete placed in the forms shall have a temperature between fifty (50) degrees F. and seventy (70) degrees F. and shall meet the requirements as per Wisconsin Department of Transportation specifications for cold weather concrete.

(g) **Sidewalk Authorization Required.**

- (1) Permits Required. No public sidewalk shall be repaired or installed by any person without first having authorization from the Director of Public Works. Such request for authorization shall be made to the Director of Public Works a minimum of two (2) business days prior to the proposed project commencement date.

- (2) Fees, Installation. Fees for sidewalk installation authorization, payable in advance, are as follows:
- a. Initial staking - no charge;
 - b. Each subsequent request - Ten Dollars (\$10.00), payable in advance;
 - c. Sidewalk authorization shall cover only contiguous construction and the work to be done as one continuous operation.
- (3) Authorization Expiration. Authorization shall expire for work not started within thirty (30) days or completed within sixty (60) days after issuance of a permit, and new authorization shall be required before beginning or completing the work.

(h) **Inspection of Work.** All work shall be subject to inspection by the City, during construction and upon completion. The Public Works Department shall be notified by permittee after forms are set and no concrete shall be poured or further construction started until approved by the Director of Public Works, or his designee.

(i) **Variance From Standards.** The City Engineer may authorize variances from standard sidewalk provisions where no curb exists or when unusual topographical conditions, nature of existing construction, or similar factors would make adherence to standard provisions unreasonable.

(j) **Grade and Line Required.** No sidewalk shall be installed unless a grade and line are established therefore. If no grades or lines are available, sidewalks may be installed, but they shall be removed, modified or replaced to conform to grades and lines when established by the City at the sole cost of the property owner abutting said sidewalk.

(k) **Barricades Required.** All persons shall, during construction of sidewalks, provide the usual lights and barriers to take necessary precautions so that public travel along the street will not be rendered dangerous by reason of construction.

State Law Reference: Section 66.0907, Wis. Stats.

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

(a) **Permit Required.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or City-owned easement within the City of Plymouth without a permit therefore from the Director of Public Works.

(b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the Director of Public Works, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The Director of Public Works shall determine if sufficient information is submitted.

(c) **City Work Excluded.** The provisions of this Section shall not apply to excavation work under the direction of City departments or employees, the Utilities Commission or to contractors performing work under contract with the City necessitating openings or excavations in City streets.

(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 6-2-4(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 Director of Public Works and payment of a Five Dollar (\$5.00) renewal permit fee. Permit renewals shall be issued at the discretion of the Director of Public Works.

(f) **City Standards; Fees.**

(1) City Standards. All street work shall be performed in accordance with the current standard specifications for street openings found in this Section and Section 6-2-4. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.

(2) Fee. The fee for permits for making openings in streets, alleys, sidewalks, or public ways shall be Five Dollars (\$5.00).

(g) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the Director of Public Works satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$500,000 per one (1) person, \$500,000 for one (1) accident and property damage coverage of not less than \$500,000.

(h) **Bond.**

(1) Before a permit for excavating or opening any public street, sidewalk, ditch, alley or public right-of-way may be issued, the applicant must execute and deposit with the City an indemnity bond in the sum of Five Thousand Dollars (\$5,000.00) conditioned that he will indemnify and save harmless the City of Plymouth and its officers from all liability for accidents and damage caused by any of the work covered by his permit,

and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Public Works Committee for a period of one (1) year, and that he will pay all fines or forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such bond shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given.

(2) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Common Council as necessary to adequately protect the public and the City.

(3) Faulty work or materials shall be immediately replaced by the permittee on notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Common Council shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.

(4) The person who does such restoration shall be responsible therefore for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in an amount determined by the Common Council.

(5) Whenever the Common Council 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 Common Council to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.

(i) **Public Utilities.** All public utilities as defined in Sec. 66.0801 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-2-4, any and all subparagraphs thereunder, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

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

(a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and May 1st except where it is determined by the Director of Public Works 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 City and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Director of Public Works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.

(2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his 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 Row 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 Director of Public Works twenty-four (24) hours prior to commencement of

excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6-2-4(b).

(5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-2-4(g).

(c) **Pavement Removal.**

(1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his work and in accordance with all applicable codes and regulations.

(2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Director of Public Works or his designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

(3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

(4) The Director of Public Works or his designee 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 water-courses shall not be obstructed.

(2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

(e) **Backfilling.**

(1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Director of Public Works or his designee, is unsuitable.

(2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Director of Public Works or his designee, 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 City. 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 Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Director of Public Works shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

(g) Pavement Replacement and Sidewalk Curb and Gutter and Driveway Restoration.

(1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required Pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.

(2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.

(3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the Director of Public Works or his designee.

(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 City Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.

(6) Sidewalks shall be replaced the full width of the walk and minimum length shall be sixty (60) inches. All replaced walk shall be four (4) inches thick, except at driveways where it shall be six (6) inches thick. The new

walk shall slope to conform to existing construction across the width of the walk toward the street.

(7) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.

(h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify City officials immediately.

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

SEC. 6-2-5 OBSTRUCTIONS AND ENCROACHMENTS.

(a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk,

public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he 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 street privilege permit under Section 6-2-6 of this Section pursuant to Sec. 66.0425, Wis. Stats.

(2) Building materials for the period authorized by the Common Council, or its designee, which shall not obstruct more than one-half ($\frac{1}{2}$) of the sidewalk or more than one-third ($\frac{1}{3}$) of the traveled portion of the street and which do not interfere with the flow in the gutters.

(3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.

(4) Public utility encroachments duly authorized by state law or the Common Council.

(5) Temporary obstructions authorized by permit pursuant to Subsection (c).

(6) Goods, wares, merchandise, or fixtures being loaded or unloaded which do not extend more than three (3) feet on the-sidewalk, provided such goods, wares, etc., do not remain thereon for a period of more than two (2) hours.

(c) **Issuance of Permit.**

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

a. The property must be located in an area zoned for commercial uses.

b. The fixtures shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.

c. The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture

reduce the unobstructed sidewalk width to less than four (4) feet at any point.

d. The property owner whose property adjoins the City sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.

e. The permitted use is for a specific limited period of time.

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

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

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

(f) **Obstructed View.** It shall be unlawful for any person to obstruct the view of the operator of any motor vehicle approaching an intersection by placing merchandise for sale or storage in the sidewalk, passway or street, or by maintaining advertising signs with a clearance of less than fourteen (14) feet projecting over the parkway or sidewalks.

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

(1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) respectively, the Council or its designee shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the

City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.

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

SEC. 6-2-6 STREET PRIVILEGE PERMIT.

(a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the City may be granted to applicants by the Public Works Committee for the purpose moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Public Works Committee may request advisory recommendations from the Chief of Police, Director of Public Works and Building Inspector prior to issuance of the permit. City officials may attach conditions to the permit, including proof of liability insurance.

(b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the City Clerk-Treasurer a bond not exceeding Twenty Thousand Dollars (\$20,000.00), conditioned that the applicant will indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such building or moving operations.

(c) **Fee.** The fee for a street privilege permit shall be in the sum of Ten Dollars (\$10.00), plus any actual City costs.

(d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Chief of Police, Director of Public Works, or Public Works Committee for violation thereof:

(1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.

(2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.

(3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.

(4) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

(5) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.

(e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Common Council.

(f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Common Council to do so, it shall be the duty of the City to remove such obstruction and make return of the costs and expenses thereof to the City Clerk-Treasurer who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

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

SEC. 6-2-7 SNOW AND ICE REMOVAL.

(a) **Removal From Sidewalks.** The owner, occupant or person in charge of any parcel or lot which fronts upon or abuts any sidewalk 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. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with material to accelerate melting or prevent slipping.

(b) **Notice and Removal of Snow from Sidewalks.** If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk

shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection (a), the Director of Public Works shall take the following action.

(1) If the Director of Public Works determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed immediately after the delivery of the notice.

(2) The Director of Public Works shall cause all sidewalks which have not been cleaned or sprinkled in the manner heretofore to be cleaned or sprinkled upon default of the person whose duty it shall be to clean or sprinkle the same, and the cost thereof, shall be assessed as a special tax against the abutting property, which shall be collected in the same manner as other City taxes.

(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. Snow from public sidewalks shall not be stored in any manner which will obstruct or limit vehicular or pedestrian vision, movement or access. No person in clearing snow from driveways, parking lots, filling stations, garage entrances, used car lots or other large areas used or business purposes shall pile or distribute snow in the streets or alleys of the City in such a way so as to narrow the traveled portion of the street block, limit the vision of the motorists at intersections, prevent parking at the curb, or cover or interfere with the use of fire hydrants. The deposit of any snow or ice upon any sidewalk, alley or street of the City, contrary to the provisions of this Section, is a nuisance; and in addition to the penalty provided for violation of this Section, the City may summarily remove and transport from the site any snow or ice so deposited and cause the cost of said removal to be charged to the owner of the property from which said snow or ice had been removed.

(d) **Enforcement.** The Director of Public Works is 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) after receiving a written notice shall result in the Director of Public Works causing the removal of said snow and/or ice.

(g) **Expense.** An account of the expenses incurred by the City to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.907, Wis. Stats.

(h) **Penalty.** Snow and ice shall be removed, pursuant to the above requirements, after any storm; should said snow and ice fail to be removed, the Public Works Department shall also issue a warning ticket. If snow and ice is not removed within forty-eight (48) hours after receiving the warning ticket, or sooner if warranted by conditions, the Police Department shall issue a ticket bearing a penalty of Fifty Dollars (\$50.00) for the first offense, Seventy-five Dollars (\$75.00) for the second offense and One Hundred Dollars (\$100.00) for a third offense. Each day in violation of this Section shall constitute a separate offense.

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

SEC. 6-2-8 TERRACE AREAS.

(a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-2(f).

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

Cross Reference: Title 6, Chapter 4.

SEC. 6-2-9 VAULTS.

All vaults and cisterns under sidewalks shall be prohibited.

SEC. 6-2-10 REQUESTS FOR IMPROVEMENTS.

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

SEC. 6-2-11 UNLAWFUL DUMPING ON STREETS.

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

SEC. 6-2-12 STREET NUMBERS.

(a) Uniform System of Numbers.

(1) A uniform system of numbering properties and principal buildings, as shown on a map thereof filed in the office of the City Clerk-Treasurer, is adopted, with such map being incorporated herein by reference.

(2) All properties on the west side of north-south streets and all properties on the north side of east-west streets shall be assigned even numbers. All properties on the east side of north-south streets and all properties on the south side of east-west streets shall be assigned odd numbers.

(3) Each building shall bear the number assigned to the frontage on which the front entrance is located. Where a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

(b) **Assignment of Numbers.** All properties or parcels of land within the City of Plymouth shall hereafter be identified by reference to the uniform numbering system herein. All existing numbers of property and buildings not in conformity with this Section shall be changed to comply. All numbers shall be assigned by the Assessor/Building Inspector, who may delegate such function to the City Clerk-Treasurer by mutual agreement thereof.

(c) **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. The physical numbers

provided herein shall be not less than four (4) inches in size. Each required number shall be affixed on the front of the building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts. For commercial buildings with a public entrance fronting a public alley, the street number shall also be affixed in such location that it may be seen in like manner from such alley.

(d) **Noncompliance.** If the owner or occupant of any building neglects for twenty (20) days to duly attach and maintain the proper numbers on the building, the City shall serve him a notice requiring him to properly number the same, and if he neglects to do so for ten (10) days after service, he shall be subject to a forfeiture as provided in Section 1-1-7.

SEC. 6-2-13 OBSTRUCTION OF PUBLIC DITCHES.

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

SEC. 6-2-14 SIGNS ON STREET POLES.

No person shall attach or fasten any advertisement, sign, paper board, tin, or other device to any telephone or electric pole within the City unless such signs have been approved in advance by the Utilities Commission.

SEC. 6-2-15 SIGNS OVER STREETS.

No person, firm, organization or corporation shall hang or place a sign of any nature over any public street in the City of Plymouth without a written permit. Such permit shall provide that the person, firm, organization or corporation shall be responsible for all damage resulting to property or persons from such sign. Such permit shall be issued by the Utilities Commission when such signs involve the use of utility fixtures, and such charge shall be made as the Utilities Commission shall establish from time to time.

SEC. 6-2-16 DISCHARGE OF GRASS CLIPPINGS.

No person shall discharge or permit the discharge of grass clippings upon any public street or alley in the City of Plymouth. Any grass clippings which may be so discharged shall be immediately removed by the person causing or permitting such discharge.

CHAPTER 3

Driveways

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

SEC. 6-3-1 DRIVEWAY PERMIT REQUIRED.

(a) **Purpose.** For the safety of the general public, the City shall determine the location, size, construction and number of access points to public roadways within the City limits. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.

(b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the City of Plymouth without first obtaining a permit therefore provided by this Chapter.

(c) **Application.** Application for such permit shall be made to the Director of Public Works on a form provided by the City and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. The applicant shall pay a fee of Five Dollars (\$5.00). Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the Director of Public Works may approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable City ordinance.

(d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:

- (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the City street, or for any other purpose.

(2) The City, notwithstanding the construction of such driveway, reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the City street at any time, including relocation, reconstruction, widening and maintaining the street without compensating the owner of such private driveway for the damage or destruction of such private roadway.

(3) The permittee, his successors or assigns, agrees to indemnify and hold harmless the City of Plymouth, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.

(4) The City does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the City street.

SEC. 6-3-2 DRIVEWAY LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.

(a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:

(1) General Design. Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provided direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. , Driveway approaches shall be at least ten (10) feet apart except by special permission of the Common Council's Public Works Committee, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place. No residential driveway shall exceed thirty-two (32) feet in width at the outer or street edge of the sidewalk unless special permission is obtained from the Common Council's Public Works Committee.

(2) Number. The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the Plan Commission for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.

(3) Island Area. The island area in the street right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way shall constitute a restricted area and may be filled in and graded only as provided in Subsection (7).

(4) Drainage. The surface of the driveway connecting with street cross sections shall slope downward and away from the street a sufficient distance to preclude ordinary surface water from the street roadbed. No driveway apron shall extend out onto the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. 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.

(5) Culverts. Driveways shall not obstruct or impair drainage in street ditches or roadside areas. Driveway culverts, where required by the City Engineer, shall be adequate for surface water drainage along the street and shall not be less than the equivalent of a twelve (12) inches diameter pipe. When required by the City Engineer to provide for adequate surface water drainage along the street, the property owner shall provide any necessary culvert pipe at his own expense. The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled in pursuant to the provisions of Subsection (7) hereof.

(6) Reconstruction of Sidewalks and Curb and Gutter. When the construction of a driveway requires the removal of a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements. Standard thickness of residential driveway approaches will be six (6) inches thick.

(7) Restricted Areas. The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:

a. The filling or draining shall be to grades approved by the City 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. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.

c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Common Council's Public Works Committee.

(8) Relocation of Utilities. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Common Council's Public Works Committee necessary before any utility may be relocated and the driveway installed.

(9) Construction Across Sidewalks. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements.

(10) Variances. Any of the above requirements may be varied by the Common Council's Public Works Committee 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-two (32) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Common Council's Public Works Committee in its discretion may permit a driveway of additional width.

(2) Angular Placement of Driveway. The angle between the center line of the driveway and the curb line shall not be less than 450.

(3) Island Areas. Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a City street. The curb shall be left intact for the length of this island. Where the public sidewalk is remote from the curb, an island of a minimum length of ten (10) feet measured along the right-of-way line shall be maintained along each entrance to the City street. All flares shall be tangent to the curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.

(c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:

(1) Width. Unless special permission is first received from the Director of Public Works, or committee thereof, a residential single-type driveway shall be no greater than thirty-two (32) feet wide at the curb line and twenty-eight (28) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than thirty-two (32) feet wide at the curb line and twenty-eight (28) feet wide at the outer or street edge of the sidewalk.

(2) Angular Placement. The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.

(d) **Appeal from Permit Refusal.** Any person feeling himself aggrieved by the refusal of the Director of Public Works to issue a permit for a private driveway may appeal such refusal to the Common Council's Public Works Committee within twenty (20) days after such refusal to issue such permit is made.

(e) **Prohibited Driveways.**

(1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the City of Plymouth except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.

(2) No driveway shall be closer than fifteen (15) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the City for effective traffic control or for highway signs or signals.

(3) The grade of that portion of any private driveway or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.

(4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.

(5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.

CHAPTER 4

Trees and Shrubs

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SEC. 6-4-1 STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER.

(a) **Intent and Purpose.** It is the policy of the City of Plymouth to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.

(b) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and terrace areas and also to all trees and shrubs to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

SEC. 6-4-2 DEFINITIONS.

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

- (a) **Person.** "Person" shall mean person, firm, association or corporation.
- (b) **Public Areas.** "Public Areas" includes all public parks and other lands owned, controlled or leased by the City except the terrace areas.
- (c) **Public Trees and Shrubs.** "Public Trees and Shrubs" means all trees and shrubs located or to be planted in or upon public areas.

(d) **Public Nuisance.** "Public Nuisance" means any tree or shrub or part thereof which, by reason of its condition, interferes With the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.

(e) **Boulevard or Terrace Areas.** "Boulevard or Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, the area four feet from the curb line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are no sidewalks, the area 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 (16) 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.** A person appointed by the Common Council to serve as City Forester and administrator of this Chapter. Unless otherwise provided, the City Forester shall be the Cemetery and Parks Superintendent.

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

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

SEC. 6-4-4 INTERFERENCE WITH CITY FORESTER PROHIBITED.

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

SEC. 6-4-5 ABATEMENT OF TREE DISEASE NUISANCES.

(a) **Dutch Elm and Other Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially

depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.), the Common Council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.

(b) **Definitions.** As used in this Section, unless otherwise clearly indicated by the context:

- (1) "Public Nuisance" means:
 - a. Dutch Elm disease.
 - b. Elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).
 - c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).
 - d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
 - e. Any other deleterious or fatal tree disease.
 - f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalks alley, park or other public place, including the terrace strip between curb and lot line.
 - g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
- (2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
- (3) "Person" means person, firm or corporation.

(c) **Inspection.**

- (1) The City Forester shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. He shall also inspect or cause the inspection of any elm tree reported or suspected to be infested with the Dutch Elm disease or any elm bark bearing materials reported or suspected to be infested with elm bark beetles.

- (2) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.
- (3) The Forester and his agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.

(d) **Abatement of Nuisances; Duty of Forester.**

- (1) The Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
- (2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he 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, he shall immediately serve or cause to be served personal or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing before the Common Council, or committee thereof, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.
b. If, after hearing held pursuant to this Subsection, it shall be determined by the Common Council, or committee thereof, that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance

as directed within five (5) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(e) Spraying.

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

SEC. 6-4-6 PLANTING OF TREES AND SHRUBS.

(a) **Responsibility.** The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards and the manner of planting shall be submitted to the City Forester for approval before commencement of such work. All planting, maintenance and trimming of trees in terraces shall be the responsibility of the individual property owners. No trees, except the types named in this Section, shall be planted in or upon any public street or place. They shall be planted only after written permission has been received from the City Forester, which permit shall state the name of the applicant, his address, the property on which the trees are to be planted and the type to be planted.

(b) **Approved Standard Trees.**

- (1) Only the following named standard trees shall be planted in the streets of the City with a six (6) foot terrace:

Schwedler Maple (*Acer Platanoides Schwedleri*)
Red or Scarlet Maple (*Acer Vubrum*)
Norway Maple (*Acer Platanoides*)
Sugar Maple (*Acer Saccharum*)
American Elm (*Ulmus Americana*)
Moline Elm (*Ulmus Americana* Var. Moline)
Scarlet Oak (*Quercus Coccinea*)
Pin Oak (*Quercus Palustris*)
Red Oak (*Quercus Vubra*)
White Ash (*Fraxinus Americana*)
Crimson King Norway Maple
Schwedler's Norway Maple
Moraine Seedless Honey Locust
White Birch
Crimean Linden (type of basswood)
Ginkgo (ornamental, slow growing)

- (2) The City Forester may allow planting of hybridized species of the above listed hardwood trees. All trees planted shall have a diameter of not less than one and one-quarter inches (1-1/4") at a point three (3) feet above the ground.

(c) **Approved Trees; Four Foot.** The following named trees are hereby approved for planting where the terrace shall be at least four (4) feet wide:

Japanese Tree Lilac (*Syringa Amurensis Japonica*)
Washington Hawthorn (*Crataegus phaenopyrum*)
Mountain Maple (*Acer spicatum*)
Scanlon Red Maple (*Acer rlibrum conica* Scanlon)
Rancho Sargent Cherry (*Prunus Sargenti columnare*)
Pyramidal European Ash (*Fraxinus txcelsior pyramidalis* Vink)
Globe Norway Maple (*Acer platanoides globosum*)
Globe Single Seed Hawthorn (*Crataegus monogyna inermis*)
Hop Hornbeam (*Ostrya virginiana*)
Idaho Locust
Hawthorne
Flowering Crabs
Pyramidal European Hornbeam
Oakleaf European Hornbeam
Improved Cofumar Maple
Little Leaf Linden (European Basewood)

Black Norway Maple
Erect Norway Maple
Cleveland Norway Maple
Crimson King Norway Maple

(d) **Location.**

- (1) There shall be a distance of fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) feet wide, ranting will not be permitted. Terrace area trees shall be a minimum of twenty-five (25) feet from an intersection.
- (2) Trees to be planted must be offset twenty-five (25) feet from under any utility wires that are less than thirty-five (35) feet from the ground. Trees may not be planted within twenty-five (25) feet of utility or light poles.
- (3) Evergreen trees or shrubs shall not be planted in a terrace area.
- (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be an approved deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.
- (5) Tree grates shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.

(e) **Cottonwood and Box Elder Trees Prohibited.** No person shall plant or maintain within the City of Plymouth any female tree of the species *Populus Deltoidea*, commonly called the "Cottonwood," or any tree commonly called the seed-bearing Box Elder or *Acer Negundo*, which may now or hereafter become infested with Box Elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed.

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

SEC. 6-4-7 TRIMMING.

(a) Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The City Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.

(b) The necessity of the pruning may be determined by the City Forester.

(c) Clearance from sidewalk to lower branches shall not be less than ten (10) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.

(d) Trimming or pruning of more than two-thirds ($2/3$) of the crown of a public area tree shall be considered to be a major alteration and shall require a permit from the City Forester.

SEC. 6-4-8 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS.

(a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.

(b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.

(c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the City Forester and/or Common Council shall order City employees to

remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.

(d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-7 of this Code of Ordinances.

Cross Reference: Section 13-1-90.

SEC. 6-4-9 REMOVAL OF TREES AND STUMPS.

(a) **Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the City Forester shall find to be infected, hazardous or a nuisance so as to endanger the general public or other trees, plants or shrubs growing within the City, or to be injurious to sewers, sidewalks or other public improvements growing upon private premises, shall be removed, trimmed or treated by the owner of the property upon which such tree or part thereof is located. The City Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester shall cause the tree to be removed, treated or trimmed and shall report the total cost thereof to the City Clerk, who shall thereupon enter such cost as a special charge against the property.

(Revised 9/08)

(b) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.

(c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the City Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the City Forester, because of disease, damage,

hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

SEC. 6-4-10 PROHIBITED ACTS.

(a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the City Forester in the case of a terrace area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:

- (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
- (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to bum where it will injure any tree or shrub.
- (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
- (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
- (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
- (6) Cause or encourage any fire or burning near or around any tree.

(b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the City Forester.

(c) **Interference With 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.

(e) All trees planted on private property after February 1, 2004 shall be set back a minimum of six (6) feet from the public right-of-way line. Any tree planted in violation of this section shall be removed at the cost of the property owner.

SEC. 6-4-11 APPEAL FROM DETERMINATIONS OR ORDERS.

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

SEC. 6-4-12 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.

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