

Chapter 38

PUBLIC SAFETY AND PUBLIC WORKS*

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PUBLIC SAFETY AND PUBLIC WORKS

ARTICLE I. IN GENERAL

Sec. 38-1 – 38-30. Reserved.

ARTICLE II. LAW ENFORCEMENT*

Sec. 38-31. Organization of police department.

The police department shall consist of a chief of police and such other officers, assistants and patrol officers as may be appointed from time to time pursuant to the provisions of statute, ordinances and resolutions of the village board.

(Code 1988, § 3-1-1)

Sec. 38-32. Records and reports.

(a) *Monthly reports.* The chief of police shall submit a monthly report to the village board of all activities and transactions of the police department during the preceding month.

(b) *Records.* The police department shall keep a suitable record in which shall be entered the name of every person arrested in the village, the name of the person making the arrest, the date and cause of the arrest, the court from which the warrant was issued, the disposition made of the case, the amount of fines and costs paid and to whom paid, bond posted and all complaints, in full.

(Code 1988, § 3-1-2)

Sec. 38-33. Powers and duties of police officers.

Every member of the police department shall:

- (1) Familiarize himself with the ordinances of the village and statutes, and attend to the enforcement of such ordinances by lawful means.
- (2) Help prevent crimes, misdemeanors and violations of ordinances, and protect the health, safety, public peace and order of the village and its inhabitants.
- (3) Report all street and sidewalk obstructions, unlighted streetlamps, unlawful street signs or signals, defective or dangerous streets and sidewalks to the appropriate person or organization responsible for their repair or service.
- (4) Maintain order at the scene of a fire or any other fire response within the village.
- (5) Ensure that the necessary permits and licenses issued by the state or village are in the possession of, or properly displayed by, any person engaged in an activity or business within the village for which such permit or license is required, and that the terms of such permits or licenses are complied with.

*Cross references – Administration, ch. 2; traffic and vehicles, ch. 50.

(6) Perform such other lawful duties as ordered by the chief of police or his authorized representative.

(Code 1988, § 3-1-3)

Sec. 38-34. Hearing authorities for suspension or removal of law enforcement officers.

(a) Pursuant to Wis. Stats. § 62.13(6m), the village may not suspend, reduce, suspend and reduce, or remove any police chief or other enforcement officer who is not probationary, unless the village follows the procedure under Wis. Stats. § 62.13(5). To act under this subsection in place of the board of police and fire commissioners under Wis. Stats. § 62.13(1)-(6), the village may do either of the following:

- (1) Establish a committee of not less than three members, none of whom may be an elected or appointed official of, or be employed by, the village. The village shall pay each member for the member's cost of serving on the committee.
- (2) Send a written request to the division of hearings and appeals for a hearing examiner under Wis. Stats. § 15.103(1). The village shall reimburse the state for the state's cost under this subsection.

(b) As required by Wis. Stats. § 61.65(1)(am), the provisions of this section first apply to law enforcement officers, when such officers are subject to a collective bargaining agreement which is in conflict with the statutory requirements, but which is still in effect on April 9, 1986, only after the expiration date of such agreement.

(Code 1988, § 3-1-4)

Sec. 38-35. Police department rules of conduct, policies, etc.

The chief of police shall establish and promulgate rules of conduct, directives, policies and procedures, and prescribe such duties for individual members of the police department as he may deem necessary for the effective and efficient command and operation of the police department; provided, no such rules of conduct, directives, policies, duties or assignments shall be in conflict with the statutes, ordinances and approved village personnel rules and regulations.

(Code 1988, § 3-1-5)

Sec. 38-36. Maintenance of personnel records and performance evaluations.

The chief of police shall:

- (1) Cause adequate personnel records of employment, assignment, promotions, attendance, performance and training to be maintained for all members of the police department.
- (2) Comply with all provisions of the law enforcement standards board in regard to background investigations.
- (3) Keep himself adequately informed of the activities of the police department and be assured the duties of his subordinates are properly discharged.
- (4) Formulate procedures for recognizing outstanding performance by police department members

for investigating complaints of misconduct by any police department member and for taking appropriate disciplinary action subject to the provisions of the applicable statutes and rules of the police department.

(Code 1988, § 3-1-6)

Sec. 38-37. Responsibility for training.

The chief of police is responsible for the training of all members of the police department, and he shall:

- (1) Cause adequate and progressive programs of training to be organized and conducted to prepare police department members in the knowledge, procedures and techniques of their duties and responsibilities.
- (2) Ensure that, within budgetary limitations, members of the police department attend training courses, seminars and conferences necessary to maintain and improve their job skills and professional knowledge.
- (3) Encourage police department members to further their education in law enforcement through study, special courses, college attendance, extension programs and independent readings.

(Code 1988, § 3-1-7)

Sec. 38-38. Civilians to assist.

When called upon by any police officer or peace officer, all persons within the village shall promptly aid and assist such officer in the execution of his duties, and whoever shall neglect or refuse to give such aid and assistance shall be subject to section 1-27.

(Code 1988, § 3-1-8)

Secs. 38-39 – 38-70. Reserved.

ARTICLE III. FIRE PREVENTION*

Sec. 38-71. Adoption of state codes.

The following orders, rules and regulations of the department of commerce, all of which are set forth in the Wisconsin Administrative Code, as amended from time to time, are incorporated in this section by reference, and adopted as part of this article:

- (1) Wis. Admin. Code ch. Comm 1; Safety.
- (2) Wis. Admin. Code ch. Comm 5; Explosives and Blasting Agents.
- (3) Wis. Admin. Code ch. Comm 7; Cleaning and Dyeing.

***Cross references** – Buildings and building regulations, ch. 10; public fire protection service, § 54-31.

- (4) Wis. Admin. Code ch. Comm 8; Flammable and Combustible Liquids.
- (5) Wis. Admin. Code ch. Comm 9; Liquefied and Petroleum Gases.
- (6) Wis. Admin. Code ch. Comm 20; Dusts, Fumes, Vapors and Gases.
- (7) Wis. Admin. Code ch. Comm 21; Spray Coating.
- (8) Wis. Admin. Code ch. Comm 35; Safety in Construction.
- (9) Wis. Admin. Code ch. Comm 43; Anhydrous Ammonia Code.
- (10) Wis. Admin. Code ch. Comm 50; Administration and Enforcement.
- (11) Wis. Admin. Code ch. Comm 51; Definitions and Standards.
- (12) Wis. Admin. Code ch. Comm 52; General Requirements.
- (13) Wis. Admin. Code ch. Comm 53; Structural Requirements.
- (14) Wis. Admin. Code ch. Comm 54; Factories, Office and Mercantile Buildings.
- (15) Wis. Admin. Code ch. Comm 55; Theatres and Assembly Halls.
- (16) Wis. Admin. Code ch. Comm 56; Schools and Other Places of Instruction.
- (17) Wis. Admin. Code ch. Comm 57; Apartment Buildings, Hotels and Places of Detention.
- (18) Wis. Admin. Code ch. Comm 58; Health Care, Detention and Correctional Facilities.
- (19) Wis. Admin. Code ch. Comm 59; Hazardous Occupancies.
- (20) Wis. Admin. Code ch. Comm 60; Child Day Care Facilities.
- (21) Wis. Admin. Code ch. Comm 61; CBRF.
- (22) Wis. Admin. Code ch. Comm 62; Specialty Occupancies.
- (23) Wis. Admin. Code ch. Comm 64; Heating, Ventilation and Air Conditioning.
- (24) Wis. Admin. Code ch. Comm 65; Fire Protection.
- (25) Wisconsin Electrical Code Comm.
(Code 1988, § 3-3-1)

Editor's note – Many of the Wisconsin Administrative Code citations in this section do not seem to correspond to the Wisconsin Administrative Code at the time of publication of this Code.

Sec. 38-72. Disclosure of hazardous materials and infectious agents; reimbursement for cleanup of spills.

(a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Hazardous materials means materials that:

- (1) Can cause death or disabling injury from brief exposure;
- (2) Could cause a lost time injury from exposure;
- (3) Could cause temporary disability or injury without permanent effects; and
- (4) Are used, researched, produced or stored within or on the premises;

except household consumer products used at the point of consumption and not used for commercial or experimental purposes. The term “hazardous materials” includes radioactive materials.

Infectious agent means a bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans, which is used, researched, produced or stored within or on the premises.

(b) *Applicability.*

- (1) All persons using, researching or producing hazardous materials and/or infectious agents shall notify the fire department as prescribed by this section.
- (2) The provisions of this section shall apply to all persons using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of the ordinance from which this section is derived.

(c) *Required information.*

- (1) Any person using, researching, producing and/or storing any hazardous materials shall provide the following information, in writing, to the fire department:
 - a. The address and location where hazardous materials are used, researched, stored or produced;
 - b. The trade name of the hazardous material;
 - c. The chemical name and any commonly used synonym for the hazardous materials and the chemical name and any commonly used synonym for its major components;
 - d. The exact locations on the premises where hazardous materials are used, researched, stored and/or produced;

- e. Amounts of hazardous materials on the premises for each exact location;
 - f. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids, and appearance and odor of the hazardous materials;
 - g. The flashpoint and flammable limits of the hazardous substances;
 - h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
 - i. The stability of the hazardous substances;
 - j. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous materials;
 - k. Any effect of overexposure to the hazardous materials. Emergency and first aid procedures and telephone numbers to call in an emergency;
 - l. Any condition or material which is incompatible with the hazardous materials and which must be avoided;
 - m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;
 - n. Procedures for handling or coming into contact with the hazardous materials;
- (2) Any person using, researching, producing and/or storing an infectious agent and/or a carrier of an infectious agent shall provide to the fire department, in writing, the following:
- a. The name and any commonly used synonym of the infectious agent;
 - b. The address and location where infectious agents are used, researched, stored or produced;
 - c. The exact locations on the premises where infectious agents are used, researched, stored and/or produced;
 - d. Amounts of infectious agent on the premises for each exact location;
 - e. Any methods or route of transmission of the infectious agents;
 - f. Any symptoms or effects of infection, emergency and first aid procedures and telephone numbers to call in an emergency;
 - g. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the infectious agent;

h. Procedure for handling, cleanup and disposal of leaked or spilled infectious agents.

(d) *Reimbursement for cleanup of spills.* Any person who controls or possesses a hazardous material or infectious agent which was discharged, or who caused the discharge of a hazardous material or infectious agent, shall reimburse the village for the actual and necessary expense incurred by the village or its agents to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstances.

(Code 1988, § 3-3-2)

Sec. 38-73. Recovery of costs.

(a) Every person using, storing, handling or transporting flammable or combustible liquids, chemicals, gases or other hazardous materials shall comply with the requirements of Wis. Admin. Code Comm, as now in force and as may be amended from time to time.

(b) Every person using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gases or other hazardous materials shall be liable to the village for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or cleanup any such hazardous material which is involved in any accidental spill or in threat of any fore or accidental spill.

(Code 1988, § 3-3-3)

Sec. 38-74. Removal of abandoned underground flammable liquid storage tanks.

Underground flammable liquid storage tanks which are abandoned, as defined in the Wisconsin Administrative Code, shall not be abandoned in place. Such tanks shall be removed within 90 days from the date they become abandoned, and the excavation shall be filled with clean, well-compacted fill to the surface of the adjacent grade.

(Code 1988, § 3-3-4)

Sec. 38-75. Fire department.

(a) *Responsibility.* The fire department shall be responsible for the program of fire defense for the citizens and property within the village.

(b) *Goals of the fire defense program.*

(1) The primary objective of the fire defense program is to serve all citizens, without prejudice or favoritism, by collectively and individually safeguarding their lives against the effects of fire and explosions.

(2) The secondary objective of the fire defense program is to safeguard the general economy and welfare of the village by preventing major conflagrations and the destruction of industries and businesses by fire.

(3) The third objective of the fire defense program is to protect the property of all citizens against

the effects of fire and explosions. All property deserves equal protection, regardless of location and monetary value.

(c) *Organization.* The village fire department is authorized and directed to adopt a constitution and bylaws for the control, management, government and regulation of its business and proceedings, Such constitution and bylaws shall become effective and operative after adopting of a two-thirds vote of the members of the fire department. All amendments shall be similarly adopted.

(Code 1988, § 3-2-1)

Sec. 38-76. Impeding fire equipment.

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of the fire department along the streets or alleys of the village at the time of a fire or when the fire department is using such streets or alleys in response to a fire alarm or for practice.

(Code 1988, § 3-2-2)

Sec. 38-77. Police power; fire inspector.

(a) *Authority at fires.*

- (1) The chief and assistants or officers in command are vested with full and complete authority at any fire. Any officer of the fire department may cause the arrest of any person failing to give the right-of-way to the fire department in responding to a fire.
- (2) The fire official conducting operations in connection with the extinguishment and control of any fire, explosion or any other emergency shall have full authority to direct all operations of fire extinguishment or control and to take the necessary precautions to save lives, protect property and prevent further injury or damage. In the pursuit of such operations, including the investigation of the cause of such emergency, the fire official may control or prohibit the approach by any person to the scene of such emergency.
- (3) No person shall obstruct the operations of the fire department in connection with extinguishing any fire, or actions relative to other emergencies, or disobey any lawful command of the fire official in charge of the emergency, or any lawful order of a police officer assisting the fire department.
- (4) The fire official in charge of an emergency scene shall have the authority to establish fire line barriers to control access in the vicinity of such emergency and to secure any street or alley. No unauthorized person may cross such fire line barriers.
- (5) No unauthorized person shall remove, unlock, destroy or tamper with any barricade or sign which has been lawfully installed by the fire department or by its order or under its control.
- (6) The chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he shall have power to cause the removal of all wires or other facilities and to turn off all electricity or other services where

they impeded the work of the fire department during the progress of a fire.

(b) *Fire inspector.*

- (1) The fire chief shall be the inspector of the village and shall have the power to appoint one or more deputy fire inspectors, and shall perform all duties required of fire inspectors by the law and rules of the department of commerce, particularly Wis. Stats. § 101.14.
- (2) While acting as fire inspector pursuant to Wis. Stats. § 101.14(2), the fire chief, or any officer of the fire department designated by the fire chief, shall have the right and authority to enter any building or upon any premises in the village at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this article, he may deem necessary. Should the fire inspector find that any provisions of this article relating to fire hazards and the prevention of fires are being violated, or that a fire hazard exists which should be eliminated, it shall be his duty to give directions for the abatement of such condition as he shall deem necessary and, if such direction shall not be complied with, to report such noncompliance to the village board for further action.
- (3) The chief of the fire department is required, by himself or by officers or members of the fire department designated by him as fire inspectors, to inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing the correction of any condition liable to cause fire, or any violations of any law or ordinance relating to fire hazards or the prevention of fires. Such inspections shall be made at least once every six months in all of the territory served by the fire department, and not less than once every three months in such territory as the village board has designated or designates as being within the fire limits or as a congested district subject to conflagration, and more often as the chief of the fire department orders. Each six-month period shall begin on January 1, April 1, July 1 and October 1 of each year.
- (4) Written reports of inspections shall be made and kept on file in the office of the chief of the fire department in the manner and form required by the department of commerce. A copy of such reports shall be filed with the village administrator.

(Code 1988, § 3-2-3)

Sec. 38-78. Damaging fire hoses; parking by hydrants; blocking fire lanes.

(a) *Driving over fire hose.* No person shall, in any manner, willfully injure any house, hydrant or fire apparatus belonging to the village, and no vehicle shall be driven over any unprotected hose of the fire department when such hose is laid down on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

(b) *Parking vehicles near hydrants.* It shall be unlawful for any person, at any time, to park any vehicle or leave any object within ten feet of any fire hydrant.

(c) *Parking near fire.* In case of a fire, it shall be unlawful for any person to drive or park any vehicle within one block from the place of the fire without the consent and authority of the fire chief or any police officer.

(Code 1988, § 3-2-4)

Sec. 38-79. Authority of firefighters to enter adjacent property; destruction of property to prevent spread of fire.

(a) *Entering adjacent property.* While acting under the direction of the fire chief or any other officer in command, it shall be lawful for any firefighter to enter upon the premises adjacent to, or in the vicinity of, a building or other property then on fire for the purpose of extinguishing such fire, and if any person shall hinder, resist or obstruct any firefighter in the discharge of his duty as provided in this subsection, such person shall be deemed guilty of resisting a firefighter in the discharge of his duty.

(b) *Destruction of property to prevent the spread of fire.* During the progress of any fire, the fire chief or his assistant shall have the power to order the removal or destruction of any property which is necessary to prevent the further spread of fire, provided that it is inevitable that other property is in danger of being destroyed by fire unless such property is removed.

(Code 1988, § 3-2-5)

Sec. 38-80. Vehicles to yield right-of-way.

Whenever there shall be a fire, fire alarm or the fire department shall be out for practice, every person driving or riding in a motorized vehicle or other vehicle shall move and remain to the side of the street until the fire engine, fire truck and other fire apparatus shall have passed.

(Code 1988, § 3-2-7)

Sec. 38-81. Interference with use of hydrants.

No person shall occupy any portion of any street or alley with a motorized vehicle or other vehicle between a fire engine, fire truck or other fire apparatus or any hydrant to which a fire hose may be, or may be about to be, attached.

(Code 1988, § 3-2-8)

Sec. 38-82. Open burning.

(a) *Prohibited.* No person shall build any outdoor fire within the corporate limits of the village, except as set forth in subsection (b) of this section.

(b) *Exceptions.* The provision of subsection (a) of this section shall not apply to:

- (1) Outdoor cooking over a fire contained in a device or structure designed for such use;
- (2) Controlled burning of grass or similar vegetation for environmental management purposes, with the prior written approval of the fire chief;
- (3) Ceremonial campfires or bonfires, with the prior written approval of the fire chief;
- (4) Controlled burning of dry leaves and other nonoffensive dry yard debris during the periods of April 1 through May 31, and October 1 through November 30 of each year, provided, however, that such burning is:

- a. Monitored by a responsible person until the fire has extinguished itself completely;
 - b. Conducted on days when excessive wind or atmospheric conditions will not result in danger to public health or safety;
 - c. Located off the public street pavement or street gutter;
 - d. Located at least 30 feet from any neighboring residence;
 - e. Not used for covert incineration of offensive substances or materials.
- (5) Other occasions of desirable outdoor burning not specified in this subsection (b), but not as an alternative to refuse removal or disposal for which other methods are available, and which may be granted single occasion approval as in subsections (b)(2), (3) and (5) of this section.
- (c) *Permit conditions.* Whenever approval and special permits are granted by the fire chief under subsections (b)(2), (3) and (5) of this section, the permit may specify and be conditioned on observance of safety restrictions and insurance requirements set forth therein. Written permission for a fire within the village limits must be issued by the fire chief or chief of police.
- (d) *Campfires.* Campfires are allowed within the village only in approved containers, fire pits lined with rocks that are three to four feet in diameter, or a fire ring.
- (e) *Authority of fire chief to prohibit.* The fire chief is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.
- (f) *Burning on streets, curbs, gutters and sidewalks.* No materials may be burned upon any street, curb, gutter or sidewalk.
- (g) *Liability.* Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by such fires.
(Code 1988, § 3-2-9; Ord. of 8-10-2005(5))

Secs. 38-83 – 38-110. Reserved.

ARTICLE IV. LOST, ABANDONED AND SURPLUS PROPERTY

Sec. 38-111. Surplus village property.

(a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Surplus village property means property which is owned by the village and has no further usefulness to the village. An item of property shall be considered to have no further usefulness when:

(1) The item or its function has been totally replaced by other village property and no probably future function exists for it;

- (2) The village no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or
- (3) The item is no longer able to reliably or economically perform the work required of it.

The term “surplus village property” shall not include:

- (1) Land or buildings, but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract.
- (2) Property which is obtained by the village as a result of abandonment of loss by the property’s original owner.
- (3) Items of property which are traded in for newer items.
- (4) Library materials used by the public library for lending purposes.

(b) *Determination.*

- (1) Whenever an item of village property is determined to be surplus village property on the basis that the village no longer performs the service for which the item was purchased, the village board shall determine whether or not the item is surplus village property.
- (2) Whenever the fair market value of an item is more than \$5,000.00, the village board shall determine whether or not the item is surplus village property.

(c) *Disposition.*

- (1) Whenever the village board determines that an item of property is surplus village property, it shall dispose of such property as it determines.
- (2) Whenever the fair market value of an item is more than \$500.00 and the village board has determined that the item is surplus village property pursuant to subsection (b) of this section, the department head responsible for the item shall dispose of the property by:
 - a. Donation to a nonprofit organization within the village or a governmental agency;
 - b. Public auction; or
 - c. Sale by sealed bid.
- (3) In the event of a public auction or sale by sealed bid, the item will be sold in as-is condition to the person submitting the highest bid; provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the village board. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. If the item is not removed within such time, the item shall revert to the village and the amount of the bid shall be forfeited to the village. If no bids are received, the item

shall be disposed of as directed by the village board.

- (4) No public auction or awarding of bids shall occur under this section, unless a description of the item to be sold and an advance notice of the time and place for such auction or bid submission is first published as a class 2 notice in the official village newspaper.
- (5) Whenever the fair market value of an item is more than \$500.00 or less, and the village board has determined that it is surplus village property pursuant to subsection (b) of this section, the item shall be disposed of as set forth in subsection (c)(2) of this section or destroyed.
- (d) *Determination of fair market value.* Whenever this section requires a determination of the fair market value of an item of property, such determination shall be made by the department head responsible for the property, whose decision shall be final.
- (e) *Authority for disposal.*
 - (1) Except for library materials used by the public library for lending purposes, only the village board may dispose of village property which is not surplus village property.
 - (2) Whenever this section provides for an auction or other disposition of any property, the village board shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property; provided, however, that the fees of such auctioneer and all such costs, other than costs for village labor and the use of village property, do not exceed the payment received by the village from the auction or sale of the property.

(Code 1988, § 3-4-1)

Sec. 38-112. Lost and abandoned property.

- (a) *Village custody.*
 - (1) Property discovered by officers or turned into the chief of police by citizens which appears to be lost or abandoned shall be disposed of in accordance with this section.
 - (2) Lost and abandoned property will be examined by the chief of police for identifying marks in an attempt to determine the owner of such property. If identifying marks are present, the shall be used by the chief of police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the chief of police.
 - (3) No village employee shall keep property found in the course of duty for his own use, nor take possession of property during off duty hours when the discovery was made while on duty.
 - (4) The chief of police shall permit citizens to claim lost property if they can provide sufficient proof that they are the rightful owners of such property.
 - (5) No village employee shall receive any lost, stolen, abandoned or otherwise unclaimed property from the chief of police, unless such person receives a written receipt signed by the chief of police, a copy of which shall remain with the village administrator.

- (b) *Disposal procedures.*
- (1) *Classes of property.* All property which has been abandoned, lost or remains unclaimed for a period of 30 days after the taking of possession of the property by the village shall be disposed of as follows, except that if the property is usable for village operations, the property need not be sold at auction, but may become the property of the village:
- a. *Vehicles.* Vehicles shall be disposed of as set forth in the applicable provisions of chapter 50, article II, of this Code.
 - b. *Intoxicating liquor and fermented malt beverages.* Intoxicating liquor and fermented malt beverages shall be destroyed.
 - c. *Firearms, ammunition and explosives.* Firearms or ammunition shall be returned to their rightful owner, destroyed or transferred to the state crime laboratory, the division of law enforcement services of the department of justice, the Federal Bureau of Investigation or the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of Treasury. Any explosive, flammable or other material providing to be a danger to life or property may be disposed of immediately upon taking possession thereof. The chief of police and fire chief, after consulting with the county sheriff's department, are authorized to determine the disposal procedure; provided, however, that any such procedure will attempt to return any such material which appears to have been stolen to its rightful owner.
 - d. *Other property with a fair market value of \$100.00 or less.* An item of property with a fair market value of \$100.00 or less shall be destroyed or sold at public auction. Perishable property which deteriorates to fair market value of less than \$100.00 shall be destroyed.
 - e. *Other property with a fair market value of over \$100.00.* An item of property with a fair market value of more than \$100.00 shall be sold at public auction or by sealed bid.
 - f. *Illegal property.* Property which cannot be legally possessed shall be destroyed.
- (2) *Auction and sale by sealed bid.*
- a. Whenever any property under this section is sold by public auction or sale by sealed bid, such auction or the awarding of bids shall be preceded by a class 2 notice describing the property and arranging the time and place for the auction or bid submission, and such notice shall be published in the official village newspaper. The property auctioned or sold by sealed bid shall be sold in as-is condition to the highest bidder. No sale or auction shall occur until the chief of police has determined that the property has no value to any probable investigation or legal proceeding. The department head responsible for the property shall determine the time in which the successful bidder shall remove the property. If the property is not removed within such time, it shall revert to the village and the amount of the bid shall be forfeited to the village.
 - b. Any village official selling property under this section shall maintain an inventory for

two years of any property not disposed of by auction or sale by sealed bid, and shall include a record of the date and method of disposal, and any payment received for the property, and the name and address of the person acquiring the property.

- (3) *Lost property.* Property which is found and delivered to the chief of police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this section until 30 days after mailing a notice to the person finding the property that he may claim ownership of such property. The chief of police shall determine what portion, if any, of the property or its value shall be given to the finder. This subsection shall not apply to any village employee finding property in the regular course of his employment.
- (4) *Payment to village treasury.* All sums received from the sale of property under this section shall be paid to the village treasury.

(Code 1988, § 3-4-2)

State law reference – Abandoned property generally, Wis. Stats. § 66.28.

Secs. 38-113 – 38-140. Reserved.

ARTICLE V. STREETS*

Sec. 38-141. Grades.

(a) *Establishment; confirmation.* The grade of all streets, alleys and sidewalks shall be established by resolution of the village board and recorded by the village administrator in his office. No street, alley or sidewalk shall be worked until the grade thereof is established. 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 confirmed.

(b) *New sidewalk grade.* Whenever a street shall be improved for the first time or the grade 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 provided in this article. Before such construction is commenced by the owners of the abutting lots or parcels of land, the director of public works shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established. The cost of furnishing such grade shall be borne by the village.

(Code 1988, § 4-1-1)

***Cross references** – Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street, alley or public way in the village saved from repeal, § 1-9(5); any ordinance levying or imposing taxes or levying special assessments or taxes saved from repeal, § 1-9(7); any ordinance establishing and prescribing the street grade of any street in the village saved from repeal, § 1-9(10); any ordinance authorizing street maintenance agreements saved from repeal, § 1-9(17); any ordinance regarding the lighting of streets and alleys saved from repeal, § 1-9(19); obstructing streets and sidewalks, § 30-36; subdivisions and platting, ch. 46; required improvements for subdivisions and platting, § 46-81 et seq.

Sec. 38-142. Alteration of grade.

No person shall alter the grade of any street, alley, sidewalk or public ground, or any part thereof, in the village by any means whatsoever, unless authorized or instructed to do so by the director of public works. All such grade alterations shall be recorded in the office of the director of public works.

Sec. 38-143. Underground utilities regulated.

(a) *Elevation.* The grade or elevation of all underground construction shall be a minimum of three feet below the established grade of the street, alley, park, public property or easement. Such three feet shall be measured between the top of the established grade and the top of the underground construction.

(b) *Approval of location.* The location of any and all underground construction must have the approval of the director of public works.

(c) *Filing and approval of plans.* Complete plans for any such construction must be filed with, and approved by, the director of public works before construction can begin.

(d) *Inspection prior to covering.* Upon request of the director of public works, the utility company must provide an opportunity for him to check any construction before it may be covered.

(e) *Conflict with other utilities.* If the grade or elevation set forth in subsection (a) of this section for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction or storm sewer, at the election of the director of public works and in accordance with his directions or specifications.

(f) *Establishment of grade.* At the request of the utility company, the director of public works shall, at the village's expense, give the utility company an established grade on any street, alley, public park or easement where it proposes to install the underground utilities.

(g) *Emergencies.* In case of 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 director of public works as soon thereafter as is reasonably possible.

(h) *Restoration of surface.* In the event of any such underground construction, the utility company shall leave the surface of the ground or road in the same condition as before the work was commenced, and in the event of its failure to do so, the village 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 38-146 and 38-147.

(i) *Nonrelief 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 improvement which may become necessary; nor does it relieve the utility company from any liability of any kind or nature whatsoever; nor shall it 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.

(Code 1988, § 4-1-3)

Cross reference – Utilities, ch. 54.

Sec. 38-144. 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 director of public works, the director of public works may cause the removal of such with rubbish or dirt to be done and report the cost thereof to the village administrator, who shall spread the cost on the tax roll as a special tax against the premises, pursuant to statute, or such cost may be recovered in an action against the owner or occupant.

(Code 1988, § 4-2-1)

Sec. 38-145. Sidewalks.

(a) *Determination of village board.* The village board may determine that sidewalks, curbs and gutters and suitable street surface materials may be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the village. The village board may determine or change the width or grade of any street or sidewalk.

(b) *Construction.*

(1) It shall be the duty of the abutting owner to build, repair, construct and rebuild streets, curbs and gutters or sidewalks along or upon any street, alley or highway in the village and pay the entire costs of such construction. Such costs shall include expenditures for engineering, excavations, gravel and driveway approaches.

(2) Whenever the village board by resolutions shall determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the village, it shall proceed according to statute. Other projects shall be assessed to abutting property owners pursuant to statute.

(3) Sidewalks shall be located in places designated by the director of public works. No person shall remove any sidewalk without the permission of the director of public works.

(c) *Permit required; fee.* No person shall lay, remove, replace or repair any public sidewalk within the village unless he is under contract with the village to do such work or has obtained a permit therefore from the village administrator at least three days before the work is proposed to be undertaken. A fee as set by the village board from time to time and on file in the village offices shall be charged for such permit.

(d) *Specifications.* Sidewalks, streets and curbs and gutters shall be constructed in accordance with the specifications adopted by the village board and on file with the director of public works, unless such ordinance or resolution ordering the sidewalk construction establishes a specific standard therefor.

(e) *Repair, removal and replacement of unsafe, defective and insufficient sidewalks.* Pursuant to statute, the village board may, at any time, order property owners to repair or remove and replace any

sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to repair or remove and replace such sidewalk within 60 days after service of the notice as provided in the statute, the village board shall repair or construct such sidewalk and the village administrator, who shall enter the total costs thereof upon the tax roll as a special tax against such lot or parcel of land. If a life-threatening situation exists which is caused by a sidewalk in need of repair, the director of public works shall direct the property owner to make repairs within seven days. If the property owner shall fail to repair such sidewalk within the required seven-day period, the village board shall make the necessary repairs and the village administrator shall enter the total cost thereof on the tax roll as a special tax against such parcel.

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

(Code 1988, § 4-2-2)

Sec. 38-146. 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 ground, public sidewalk or village-owned easement within the village without a permit therefore from the director of public works or village administrator.

(b) *Permit application.* The application for a permit shall be in writing and signed by the applicant or his agent. At the time the permit is applied, the applicant shall submit sufficient information relating to the work to be done to the director of public works or village administrator, including the general location and nature of the work and the method the applicant proposes to use in doing the work. The director of public works or village administrator shall determine if sufficient information is provided.

(c) *Exception.* The provisions of this section shall not apply to village excavation work done under the direction of the director of public works.

(d) *Permit validity.* Permits shall be valid for a period of 30 days from the date of approval, except as provided for under section 37-147(g) for pavement replacement.

(e) *Permit renewal.* If operations have begun under an approved permit and will continue beyond the 30-day validation period, the permittee shall apply for a 30-day permit renewal by written request to the director of public works or village administrator and payment of a renewal permit fee as set by the village board from time to time and on file in the village offices. Permit renewals shall be issued at the discretion of the department of public works.

(f) *Performance standards; fees.*

(1) *Standards.* All street work shall be performed in accordance with the current standard specifications for street openings. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition thereof prior to such damage.

(2) *Fee.* The fee for a street opening permit shall be as set by the village board from time to time and on file in the village offices, plus actual village expenses. Permit fees shall be paid to the director of public works or village administrator, who shall issue a receipt therefor.

(g) *Insurance required.* A permit shall be issued only upon the condition that the applicant submit satisfactory written evidence to the director of public works or village administrator that the applicant has in force and will maintain during the time the permit is in effect public liability insurance in an amount as set by the village board from time to time and on file in the village offices per one person for one accident, and property damage coverage in an amount as set by the village board from time to time and on file in the village offices. The policy shall name the village as the third party insured.

(h) *Indemnity statement; repair of defective work; bond.* Before a permit for evacuating or opening any street or public way may be issued, the applicant must sign a statement that he will indemnify and save harmless the village and its officers from all liability for accidents and damage caused by any of the work covered by the permit, and that he will fill up and place in a 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 that state and condition in which he found it, and keep and maintain the pavement in such condition, normal wear and tear excepted, to the satisfaction of the director of public works for a period of two years, and that he will pay all fines or forfeitures imposed upon him or any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the village board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the village. Such statement shall also guarantee that, if the village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and maintaining the repair for two years.

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

(2) The person who does such restoration shall be responsible for such restoration work for two years from the date of completion of the work, and shall file a written guarantee or surety bond to that effect with the village in an amount determined by from the director of public works or village administrator.

(3) Whenever the director of public works or village administrator shall find that any such work has become defective within two years of the date of completion, he shall give written notice thereof to the contractor or his surety, stating the defect, the work to be done, the cost thereof and the period of time deemed by the director of public works or village administrator to be reasonably necessary to complete such work. After receipt of such notice, the contractor or surety must, within the time specified, repair the defect or indemnify the village for the cost of doing the work as set forth in the notice.

(4) An annual bond may be given under this section covering all excavation work done by the principal for one year, beginning January 1, which shall be conditioned as specified in this subsection (h) and in the amount determined by the village board as necessary to adequately protect the public and the village.

(Code 1988, § 4-2-3)

Sec. 38-147. Excavations and openings regulated.

(a) *Frozen ground.* No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15 and May 1, except where it is determined by the director of public works to be an emergency excavation.

(b) *Protection of public.*

(1) Every opening and excavation shall be enclosed with sufficient barriers, signing and other such traffic control devices as may be required by the director of public works, and in accordance with section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the director of public works, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying, nor left unfilled more than 500 feet from where of pipe or conduit has been laid.

(2) All necessary precautions shall be taken to effectively guard the public 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 village in defending any action brought against it for damages, as well as the costs 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 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. If traffic is limited to less than one 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 as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during the construction operation. Twenty-four hours prior to the commencement of the excavation, the permittee shall notify the police department of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in subsections (g) and (h) of this section.

(5) When the operation 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 12 hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in subsections (g) and (h) of this section.

(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 such work and in accordance with all applicable codes and regulations.

- (2) During excavation, if the pavement is damaged 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. If the street opening should occur within, adjacent or close to an existing patch, or require more than one opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. On the basis of an on-site inspection, the director of public works shall 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 curblines or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with, or at right angles to, the direction of travel.
 - (4) The director of public works may order the permittee to remove and replace up to one 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 ensure a full depth of concrete at the joint.
- (d) *Excavated material.*
- (1) All excavated material shall be piled in a manner so that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear, or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
 - (2) Excavated material to be used for backfilling of the trench must be handled and placed 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 inches in their greatest dimension, frozen lumps or other material which is unsuitable, in the opinion of the director of public works.
 - (2) If there is not sufficient material excavated suitable for refilling the excavation, the deficiency shall be made up with hauled-in material which is approved by the director of public works prior to such use.
 - (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 the 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 95 percent 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 village. Backfilled material not achieving the compaction requirements set forth in subsection (e)(4) of this section shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.
- (6) Sheathing and braces shall be used to prevent caving when the sides of the trench will not stand perpendicular. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavement 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 proposed work, at least one business day before such work is to commence. The director of public works shall also be notified at least four hours prior to backfilling and/or restoring the surface.
- (g) *Pavement replacement.*
- (1) Backfill material shall be left below the original surface to allow for five inches of three-inch crushed stone and four inches of three-quarter-inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the original street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter-inch crushed stone.
- (2) Bituminous pavement shall be placed the full depth of the existing pavement or three inches, whichever is greater. Bituminous pavement shall be placed in a maximum of 1 ½ inch layers, with each layer compacted to the maximum density, and shall consist of state department of transportation gradation No. 1 for the binder course and 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 not be more than one-quarter inch, as measured with a ten-foot straight edge.
- (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven inches, whichever is greater. The 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 days. Tie bars shall be installed as directed by the department of public works.
- (4) In emergency excavations during winter months when it is not possible to replace the removed pavement with a similar material, the excavation shall be temporarily resurfaced with a minimum of 3 ½ inches of cold mix bituminous material. The temporary wearing surface shall be compacted and rolled smooth. Except as provided in this subsection (g), such temporary wearing surface shall be removed and replaced with material as specified in this subsection (g) by not later than the following June 1. Permanent pavement shall be replaced within 60 days of the date of the permit.
- (h) *Emergency excavations.* In the event of an emergency, any person 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, must 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 persons shall apply for an excavation permit not later than the next business day, and shall immediately notify the police department.

(i) *Permanent improvements and repaving.* Whenever the village board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the village board, the director of public works shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under such street or any real property abutting such street that all such excavation work in the street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open or excavate such street for a period of five years after the date of improvement or repaving, unless in the opinion of the director of public works, conditions exist which make it absolutely essential that such permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces. (Code 1988, § 4-2-4)

Sec. 38-148. Obstructions and encroachments.

(a) *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 to remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in subsections (b) and (c) of this section.

(b) *Exceptions.* The prohibition of subsection (a) of this section shall not apply to the following:

- (1) Temporary encroachments or obstructions authorized by permit under section 38-149 pursuant to Wis. Stats. § 66.0425.
- (2) Building materials for the period authorized by the building inspector, which shall not obstruct more than one-half of the sidewalk or one-third 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 38-146 and 38-147.

(c) *Issuance of permit.*

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

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

five feet at any point.

- d. The property owner shall provide the village with proof of liability insurance coverage. The insurance coverage shall be an amount not less than \$100,000.00 per occurrence, and the policy shall specifically state that it includes coverage for the fixtures located on the village sidewalks. In addition, the village shall be identified as a third party insured.
- e. The fixtures shall not be for sale, nor shall they be used for the sale of merchandise, specifically excluding all forms of vending machines, vendors carts or tables, etc.
- f. The property owner whose property adjoins the village sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.
- g. The property owner or the occupant of the subject property shall display the approved permit in the window of the building so that it can be seen from the sidewalk.

- (2) Upon reviewing the permit application, if it is determined by the village administrator that all of the requirements set forth in subsection (c)(1)a-g of this section have been met, he shall issue the permit. Such permit may be revoked by the village president, director of public works, village administrator, building inspector or any village law enforcement officer (village enforcement officials,) at any time, when one or more of the requirements set forth in subsection (c)(1)a-g of this section are not complied with or if he determines that the placement of the fixtures endanger the safety of the pedestrians who utilize the sidewalks.

(d) *Notice of sidewalk obstructions.* In addition to any other penalty imposed, if any village 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 24 hours.

(e) *Notice of obstructions of streets, alleys, public grounds and land dedicated for public use.* In addition to any other penalty imposed, if any village enforcement official determines that a village 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 adjoins the obstructed public area directing that the obstruction be removed within 24 hours.

(f) *Failure to remove.*

- (1) If the owner or occupant fails to remove the obstruction within the time period established in subsection (d) or (e) of this section, respectively, any village enforcement official shall cause the removal of the obstruction, keeping an account of the expenses 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 calendar days from receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the village administrator shall enter the charges onto the tax roll as a special tax as provided by statute.

- (2) The failure of the village administrator to record such claim or mail such notice, or the failure of

the owner to receive such notice shall not affect the right to place the village expenses on the tax rolls for unpaid bills for abating the obstruction as provided for in this section.

(Code 1988, § 4-2-5)

Sec. 38-149. Street privilege permit.

(a) *When required.* Permits for the use of the streets, alleys, sidewalks or other public ways or places of the village may be granted to applicants by the village administrator for the purpose of moving any building or structure or encumbering any street, alley, sidewalk or way with materials which are 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. The village administrator shall request advisory recommendations from the chief of police and the director of public works prior to issuance of the permit. Village 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 a bond with the village administrator, in an amount determined by the director of public works, but not exceeding \$20,000.00, conditioned that the applicant will indemnify and save harmless the village from all liability for accidents or damaged caused by reason of operations under such permit, and will remove such encumbrance upon termination of the operations, and 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 village resulting from such building or moving operations.

(c) *Fee.* The fee for a street privilege shall be as set by the village board from time to time and on file in the village offices, plus any actual village costs.

(d) *Conditions of occupancy and obstruction.* 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 director of public works or chief of police for violation thereof:

- (1) Temporary obstructions shall not cover more than one-third of any street or alley.
- (2) Obstructions shall be sufficiently lighted at night 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 feet in width, guarded on both sides by a closed fence of at least four feet high, may be maintained during the period of occupancy.
- (4) The process of moving any building or structure shall be as continuous as practicable until complete and, if ordered by the chief of police and director of public works, shall continue during all hours of the day and night.
- (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

- (6) Buildings shall be moved only in accordance with the route prescribed by the director of public works and chief of police.
- (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel, at the expense of the permittee.
- (e) *Termination.* All street privilege permits shall automatically terminate at the end of three months from the date of issuance, unless an earlier termination date is specified on the permit at the discretion of the village administrator.
- (f) *Removal of obstructions by village.* In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall fail to remove, or neglect to remove, such obstruction within 24 hours after notice to do so from the director of public works or chief of police, it shall be the duty of the director of public works or chief of police to remove such obstruction, and make return of the costs and expenses thereof to the village administrator, who shall enter such costs on the next annual tax roll as a special tax against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.
(Code 1988, § 4-2-6)

Sec. 38-150. Snow and ice.

- (a) *Removal from sidewalks.* The owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall keep such sidewalk clear of all snow and ice. If snow accumulates on such sidewalk due to natural means and/or by any other means, such sidewalk shall be cleared of all accumulated snow and/or ice within 24 hours from the time the snow ceases to accumulate on the sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four feet in width. If ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of parcel or lot which fronts upon or adjoins any sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians.
- (b) *Action upon nonremoval 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 such sidewalk clear of snow and ice as set forth in subsection (a) of this section, the director of public or village law enforcement officers shall take the following action:
- (1) *Hazardous conditions.* If the director of public or village law enforcement officer determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed within two hours from the delivery of the notice. If the property owner, occupant or person in charge of the parcel or lot is unavailable to receive the written notice, the director of public works or police officer shall immediately cause the removal of the snow and/or ice. The director of public works or police officer shall send a written notice to the last known address of the property owner notifying him that a hazardous condition existed which required immediate abatement.

- (2) *Nonhazardous conditions.* If the owner, occupant or person in charge of the subject parcel or lot fails to remove the snow within the time period established in subsection (a) of this section, the director of public works or police officer shall cause the issuance of a written notice to such owner, occupant or person in charge of the subject parcel or lot directing the responsible person to remove the snow and ice no later than 12:00 noon of the day following the issuance of the notice. The written notice shall be hand-delivered, when possible, or mailed to the last known address of the owner of the subject property as identified on the records in the village administrator's office.
- (3) *Deposit on public streets, alleys, sidewalks and public lands dedicated to public use.* No person shall push, shove or in any way deposit any snow or ice onto any public street, alley, sidewalk or public land dedicated to public use, except parcels or lots located where existing buildings are constructed within five feet of the street right-of-way and the sidewalks exist from the village right-of-way to the curblin. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- (c) *Enforcement.* The director of public works, his designees and all sworn police officers are authorized and directed to enforce the provisions of this section.
- (d) *Continued violations.* Each 24-hour period where a violation of this section occurs shall constitute a separate offense under this section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this section.
- (e) *Failure to abate after notice.* After receiving a written 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 in subsection (b)(1) and (2) of this section shall result in the director of public works causing the removal of such snow and/or ice.
- (f) *Abatement expenses.* An account of the expenses incurred by the village to abate a 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 calendar days from the receipt thereof. Within 60 days after such costs and expenses are incurred and remain unpaid, the village administrator shall enter the charges onto the tax roll as a special tax as provided by statute.
- (g) *Violations; penalties.* In addition to the provisions set forth in this section, any person who violates the provisions of this section shall be subject to a penalty as provided in section 1-27. (Code 1988, § 4-2-7)

Sec. 38-151. Terrace areas.

- (a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Terrace has the definition as set forth in section 38-223.

(b) *Noxious weeds; paving.* Except in areas specifically approved by the village board or its designee, all of the part of a terrace not covered by a sidewalk shall:

- (1) Be kept free and clear of all noxious weeds;
- (2) Not be paved, surfaced or covered with any material which shall prevent the growth of plants; and
- (3) Be maintained as a lawn.

(c) *Responsibility for maintenance.* Every owner of land in the village 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.

(Code 1988, § 4-2-8)

Sec. 38-152. Vaults and cisterns.

All vaults and cisterns under sidewalks shall be prohibited.

(Code 1988, § 4-2-9)

Sec. 38-153. Downspouts and eaves of buildings.

No downspout from any building shall terminate on or upon, or in such a position that the contents of such downspout shall be cast upon, or flow back or over, any public sidewalk in the village. When the eaves of a building extend over, or are constructed so that water may fall from them or run back upon, any public sidewalk, such eaves shall be protected by proper spouts or otherwise so that no water shall fall or drain from them or run back upon or over any public sidewalk. The owners of any building and the officers of any association or corporation owning any building on which any downspouts or eaves shall be maintained contrary to this section shall be subject to a penalty as provided in section 1-27.

(Code 1988, § 4-2-10)

Sec. 38-154. Special event vending permit.

(a) *Required.* No person shall display, sell or offer to sell on any street, sidewalk, alley or other public place within the village any goods, wares, foodstuffs or anything of value or service of any kind by putting up a booth or stopping a vehicle or person on foot, or in any manner attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a special event vending permit from the village administrator. Such permit shall enable holders to conduct their business in all enumerated areas subject to the limitations of this section. A special event vending permit shall be obtained where the vending is done by a participant in a special event, and where such vending is an integral part of the event. However, where the vending is to occur in connection with a village or areawide promotion of community trade or a festival sponsored or coordinated by an organization, the sponsoring organization shall obtain the special event vending permit as the agent for its participating members.

(b) *Application procedure.*

- (1) Application for a special event vending permit shall be filed with the village administrator and shall contain such information as the village administrator may require. Licenses shall be signed by the village administrator and shall be conspicuously displayed at the place where such sales are being made. The permit shall set forth the exact days on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. Where a sponsoring organization is the applicant, the applicant shall provide the village administrator with a complete list of sponsors and participants at the time of making the applications.
 - (2) Upon receipt of an application for a permit, the village administrator shall review the information given on the application for conformity with the provisions of this section. In the village administrator's opinion, if all applicable requirements are clearly and unambiguously met, he shall approve the permit or approve it conditionally. In the village administrator's opinion, if the applicable requirements are not clearly and unambiguously met, he shall state the matters in doubt in writing to the applicant within three days of the time of making the application.
 - (3) The village board shall review appeals of the denial of the application by the village administrator, and may either deny the permit, approve the permit or approve the permit conditionally. Appeals requests shall be filed with the village administrator within seven days of the village administrator's decision.
- (c) *Conditions of license.* In addition to any other conditions imposed by the village board, all permittees shall fully comply with the following requirements:
- (1) *Liability insurance.* In order to hold a valid permit, the vendor must have adequate liability insurance in force. For the purposes of this section, the term "adequate liability insurance" means liability insurance holding the village and its employees and agents harmless, and indemnifying and defending the village, its employees and agents against all claims, liabilities, losses, damages or expenses incurred by the village, with adequate liability policy limits, on account of any damage cause by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform such conditions of the permit, the applicant shall furnish a certificate of insurance evidencing the existence of comprehensive general liability insurance, including contractual liability insurance, with the village board being named as an additional insured, with adequate liability limits of a minimum of \$100,000.00 per occurrence for bodily injury, and minimum limits of \$50,000.00 per occurrence for property damage. The certificate of insurance shall provide 30 days' written notice to the village upon cancellation, nonrenewal or material change in the policy. Proof of insurance shall be submitted to the village administrator a minimum of seven days before the start of the event.
 - (2) *Cooperation with chief of police.* To protect the public health and safety, the permittee shall coordinate the location of all events under the permit with the chief of police. Street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the chief of police for his review and approval a minimum of seven days before the start of the event.
 - (3) *Responsibility for cleanup.* The permittee shall be fully responsible for all necessary cleanup associated with the licensed event.

- (4) *Compliance with other regulations.* The permittee shall comply with all applicable state and county regulations governing health and sanitation for food handling establishments, if applicable, and any other applicable village regulations, including, but not limited to, regulations pertaining to the issuance of special class “B” fermented malt beverage licenses.

(Code 1988, § 4-2-11)

Sec. 38-155. Submission of requests and petitions for improvements.

Requests or petitions by village property owners for new streets, street resurfacing, curbs and gutters, storm sewers, utility work and sidewalks shall be presented to the village board on or before August 1 in order to be considered for installation in the following year.

(Code 1988, § 4-2-12)

Sec. 38-156. Raking leaves and grass clippings into streets, gutters and sidewalks.

In the interest of public safety, health and general welfare, community appearance and efficiency of operation, it shall be unlawful to rake or place fallen tree leaves or grass clippings onto the pavement or into the gutter of any public street. No person shall permit grass clippings from mower swaths to remain upon sidewalks or on abutting property owned or occupied by him.

(Code 1988, § 4-2-13)

Sec. 38-157. Unlawful dumping, etc.

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 or alley, or upon any public property or property of another, without the express permission of the owner or occupant thereof.

(Code 1988, § 4-2-14)

Cross reference – Solid waste, ch. 42.

Sec. 38-158. Street numbers.

(a) *Assignment.* Each principal building in the village shall be assigned an official street number by the village administrator.

(b) *Display.* The owner, occupant or agent in charge of a premises shall cause the official street number assigned to such building as provided in subsection (a) of this section to be affixed to each principal building controlled by him, and the maintenance of such affixed number. The physical numbers shall not be less than 2 ½ inches high, on a background of not less than three inches. Such physical numbers shall be provided by the village administrator’s office, if requested, at cost. Each required number shall be affixed on the particular building in a location so 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. Buildings abutting also on a public alley shall also affix the street number in a location so that it may be seen in a similar manner from such alley.

(Code 1988, § 4-2-15)

Sec. 38-159. Obstruction of public gutters, ditches, culverts, swales and drains.

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

(Code 1988, § 4-2-16)

Sec. 38-160. Curbs and gutters.

(a) *Construction; collection.* At any time, the village may construct, or have constructed, curbs and gutters within the village. As a complete alternative to any other methods provided by law, the village may collect for such curbs and gutters in the manner and by the procedure provided by Wis. Stats. § 66.0701.

(b) *Alternative methods.*

(1) *Petition.* Any taxpayer and property owner in the village may petition the village for the installation of curbs and gutters abutting property owned by such petitioner in the village.

a. *Requirements.* The petition for the installation of curbs and gutters shall state:

1. That the petitioner requests curbs and gutters abutting property owned by him;
2. A description of the property;
3. What type is requested;
4. That each petitioner shall individually be responsible and liable for, and thereby obligates himself to pay, the total costs of installation of such curbs and gutters, including surveying and other contingent expenses.

b. *Effect.* If a petition for the installation of curbs and gutters is presented to the village board, the village board shall have the exclusive discretion to accept or reject the petition. The village board may refer the petition or table it, but in any event, shall act upon the petition in some manner within six months of receipt of the petition.

(2) *Resolution of intent.* If the village should desire to construct curbs and gutters in any area of the village, the village board may adopt a resolution of intent to install such curbs and gutters, and assess the costs of such installation to the abutting property owners, as provided by statute.

(c) *Types.* All curbs and gutters shall conform to the construction standards adopted by the village board and on file with the director of public works.

(d) *Liability for replacements, repairs, damages and maintenance.* Whenever curbs and gutters are installed, all property owners receiving the benefits thereof shall be responsible and liable for all replacements, repairs, damages and maintenance during any period of construction on the property

against which it abuts. Any expense for additional width of road made necessary by blacktop curbs and gutters shall be the responsibility of, and shall be paid for by, the abutting property owner.

(e) *Charge of costs.* Any and all costs of replacement, repair and maintenance of curbs and gutters incurred within two years after installation thereof, or damage thereto during construction as provided in subsection (d) of this section, shall be charged to the lot or parcel of land affected thereby, pursuant to statute.

(Code 1988, § 4-2-17)

Secs. 38-161 – 38-190. Reserved.

ARTICLE VI. DRIVEWAYS

Sec. 38-191. Permit.

(a) *Purpose and intent.* For the safety of the general public, the village shall determine the location, size, construction and number of access points to public roadways within the village limits, through the administration of this section by the village administrator. It is the village’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) *Required.* No person 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 village without first obtaining a permit therefore as provided by this section.

(c) *Application.* Application for such permit shall be made to the village administrator on a form provided by the village, 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 as set by the village board from time to time and on file in the village offices. Upon receipt of the application and the fee, if required, unless the proposed private driveway is part of a 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 village administrator shall approve such application if the proposed driveway complies with the terms and conditions of this article and any other applicable village ordinance.

(d) *Applicant’s statement.* All driveway permit applications shall contain the applicant’s statement that the:

- (1) 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 village street or any other purpose.
- (2) Notwithstanding the construction of such driveway, the village reserves the right to make any changes, additions, repairs or relocations within the dedicated portion of the village 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) Permittee, his successors or assigns, agrees to indemnify and hold harmless the village, its officials, officers, agents or employees against any claim or cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- (4) Village 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 village street.

Sec. 38-192. 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 the appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy area 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 so that vehicles approaching or using the driveway shall have adequate sight distance along the street. Driveway approaches shall be at least ten feet apart except by special permission from the village board, and driveways shall in call cases be placed wherever possible so as not to interfere with utilities in place.
- (2) *Number.* The number of driveways to serve an individual property fronting a street shall be one except where deemed necessary and feasible by the village board 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 (a)(6) of this section.
- (4) *Drainage.* The surface of the driveway connecting with rural type street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed.
- (5) *Reconstruction of sidewalk and curb and gutter.* When the construction of a driveway requires the removal of a curb and gutter the new connections shall be of equivalent acceptable materials 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 area that is inadequate or which is or may be damaged by means of vehicle travel across the sidewalk.

- (6) *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 village 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 provisions 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 village board.
- (7) *Relocation of utilities.* Any costs of relocating public utilities shall be the responsibility of the property owner with approval of the village board or authorized committee thereof necessary before any utility may be relocated and the driveway installed.
- (8) *Construction across sidewalks.* All driveway entrances and approaches which are constructed across sidewalks shall be of concrete construction in accordance with the requirements for sidewalk construction in section 38-145 insofar as such requirements are applicable, including thickness requirements.
- (9) *Variances.* The village board in such instances may vary any of the requirements set forth in subsections (a)(1)-(8) of this section 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 of driveways serving commercial or industrial establishments:
- (1) *Width of drive.* No part of a private drive located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than 30 feet measured at right angles to the centerline of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than specified in this section, the village board in its discretion may permit a driveway of additional width.
 - (2) *Angular placement of driveway.* The angle between the centerline of the driveway and the curbline shall not be less than 45 degrees.
 - (3) *Island areas.* Where the public sidewalk is adjacent to the curb, an island of a minimum length of six feet measured along the curbline shall be placed between each entrance to a village 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 feet measured along the right-of-way line shall be maintained along each entrance to the village street. All flares shall be tangent to the

curbline. A curb of not less than three feet shall be left undisturbed 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 of driveways.* Openings for vehicular ingress and egress shall be at least ten feet wide at the property line for residential properties, but shall not exceed thirty feet at the property line and thirty feet at the curb opening.
- (2) *Angular placement.* Then centerline 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.
- (3) *Driveway location, design and construction requirements.* All driveways for new dwellings are required to be paved within six months of occupancy. Existing driveways with construction of a new dwelling or garage must be paved also within six months.

(d) *Appeal for permit refusal.* Any person feeling aggrieved by the refusal of the village administrator to issue a permit for a private driveway may appeal such refusal to the village board within 20 days after such refusal to issue a permit is made.

(e) *Prohibited driveways.*

- (1) No person, firm or corporation shall place, construct, locate or cause to be placed, constructed or located, any obstruction within the limits of any public road, highway or street in the village except as permitted by this section. As used herein the term “structure” includes private driveways, a portion of which extends into any public road, highway or street and which is in nonconformance with this article.
- (2) No driveway shall be closer than ten 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 village for effective traffic control or for highway signs or signals.
- (3) The grade of the 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 existing 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, erect by the owner of the premises involved shall extend beyond the culvert spanning the watercourse

located in such a public way.

(f) *Culvert construction and standards.*

- (1) *Size.* Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than 12 inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be made of new manufacture, unless specifically excepted by the director of public works or village engineer.
- (2) *Gauge.* The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

<i>Pipe Diameter (inches)</i>	<i>Gauge</i>
15 to 24	16
30 to 36	14
42 to 54	12
60 to 72	10
78 to 84	8

The class of reinforced concrete pipe shall be in accordance with the following:

<i>Height of cover (in feet)</i>	<i>Class of Pipe</i>
0-2	IV
2-3	III
3-6	II

- (3) *Drainage.* The culverts shall be placed in the ditch line at elevations that will assure proper drainage.
- (4) *Endwalls.* Culverts shall be provided with concrete or metal apron endwalls as directed by the village engineer.
- (5) *Backfill materials.* Material used for backfill shall be quantity acceptable to the village engineer or director of public works and shall be free from frozen lumps, wood or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six inches.
- (6) *Erosion control.* The village engineer or director of public works shall implement as necessary to control erosion, or as directed, erosion control measures.
- (7) *Distance.* The distance between culverts under successive driveways shall not be less than ten

feet except as restricted area is permitted to be filled pursuant to subsection (a)(6) of this section.

- (8) *Cost, maintenance.* The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his culverts unobstructed and clean.
- (9) *Appeal.* A person may request a variance from the culvert requirements of this section by filing a written appeals request with the village administrator, who shall place the matter as an agenda item for the village board's next meeting. The village board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The village engineer or director of public works may be asked to render an opinion on the request.

(Code 1988, § 4-3-2; Ord. of 8-10-2008(8))

Secs. 38-193 – 38-220. Reserved.

ARTICLE VII. TREES AND SHRUBS*

Sec. 38-221. Adoption of state statutes.

Wis. Stats. §§ 27.09 and 86.03 are adopted and incorporated in this section by reference.
(Code 1988, § 4-4-14)

Sec. 38-222. Statement of policy and applicability.

(a) *Intent and purpose.* It is the policy of the village to regulate and establish a policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public and terrace areas of the village in order to:

- (1) Eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas;
- (2) Promote and enhance the beauty and general welfare of the village;
- (3) Prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas;
- (4) Guard all trees and shrubs, public and private, within the village against the spread of diseases, insects or pests.

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

(Code 1988, § 4-4-1)

***Cross reference** – Required improvements for subdivisions and platting, § 46-81 et seq.

Sec. 38-223. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Boulevard and *terrace areas* mean the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curblin shall be deemed to be a boulevard for the purpose of this article. The term "boulevard" shall have the same meaning as the term "terrace." Where there are only sidewalks, the area four feet from the curb shall be deemed boulevard areas under this article.

Evergreen tree means 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.

Forester means a person designated by the village board as being authorized to carry out the provisions of this article.

Major alteration means trimming a tree beyond the necessary trimming to comply with this article.

Person means a person, firm, association or corporation.

Public areas includes all public parks and other lands owned, controlled or leased by the village, except the terrace areas.

Public nuisance means any tree or shrub, or part thereof, which, by reason of its condition:

- (1) Interferes with the use of any public area;
- (2) Is infected with a plant disease;
- (3) Is infested with injurious insects or pests;
- (4) Is injurious to public improvements; or
- (5) Endangers the life, health, safety or welfare of persons or property.

Public tree and shrub means all trees and shrubs located, or to be planted, in or upon public areas.

Shrub means any woody vegetation or woody plant having multiple stems and bearing foliage from the ground up.

Tree means any woody plant, normally having one stem or trunk bearing its foliage or crown well above the ground level, to heights of 16 feet or more.

(Code 1988, § 4-4-2)

Cross reference – Definitions generally, § 1-2.

Sec. 38-224. Village forester designated; authorized to enter private premises.

(a) The village board may designate a municipal employee or designee to perform the duties of forester under Wis. Stats. Ch. 27, and may authorize such forester to perform the duties and exercise the powers imposed on the village board by this article. The village forester shall annually be appointed by the village president, subject to village board confirmation, at the village board's organizational meetings.

(b) The village 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 article.

(Code 1988, § 4-4-3)

Sec. 38-225. Interference with the village forester.

No person shall interfere with the village forester or his authorized representative while he is engaged in carrying out any work or activities authorized by this article.

(Code 1988, § 4-4-4)

Sec. 38-226. Tree diseases.

Definitions. The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Person means a person, firm, association or corporation.

Public nuisance means:

- (1) Dutch elm disease.
- (2) Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
- (3) 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.).
- (4) 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.
- (5) Any other deleterious or fatal tree disease.
- (6) Any tree, or part thereof, which, by reason of its condition and location, is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between a curb and a lot line.
- (7) Any tree, or part thereof, which is infested by the eastern tent caterpillar or other defoliating larvae.

Public property means owned or controlled by the village, including, without limitation, because of enumeration, public sites, parks, playgrounds, public streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.

(b) *Public nuisance declared.* The village board has determined that there are many trees growing on public and private premises within the village, 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 village, 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 village board declares its intention to control and prevent the spread of such diseases 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 nuisance.

(c) *Inspections.*

(1) The village forester shall inspect, or cause to be inspected, all premises and places within the village to determine whether any public nuisance exists. 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 a manner so as to avoid fatal injury thereto, and deliver such specimens to the state department of agriculture at Madison for analysis to determine the presence of such nuisances.

(3) The village 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, duty of village forester.*

(1) The village forester shall order, direct, supervise and control the abatement of public nuisances, as defined in subsection (a) of this section, by spraying, removing, burning or 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) After inspection or examination, whenever the village forester shall determine that a public nuisance, as defined in subsection (a) of this section, exists on public property in the village, he shall immediately abate, or cause the abatement of, such nuisance in such a manner as to destroy or 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 disease fungus.

(3) a. When the village forester shall determine, with reasonable certainty, that a public nuisance exists on private premises, he shall immediately serve, or cause to be served, personally or by registered mail upon the owner of such property, if such owner can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, which shall be not less than 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 a nuisance does not exist or does not endanger the health of trees in the village, the village 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 village.

- b. If, after a hearing held pursuant to subsection (d)(3)a of this section, it shall be determined by the village board that a public nuisance exists, it shall forthwith order the immediate abatement of such nuisance. Unless the property owner abates the nuisance as directed within five days after such hearing, the village 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 village forester may extend the time allowed the property owner for abatement work, but not to exceed ten additional days.

(e) *Spraying.*

- (1) Whenever the village forester determines 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 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 subsection (e), the village forester shall cause advance public notice of such operations to be given by newspaper, radio, television, public service announcements or other effective means, and shall also cause the posting of appropriate warning notices in the area and along the streets where trees are to be sprayed at least 24 hours in advance of the spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the village forester shall also notify the chief of police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets, as conditions require. Temporary no parking notices shall be posted in each block of any affected street at least 24 hours in advance of the spraying operations.
- (3) When appropriate warning notices and temporary no parking notices have been given and posted in accordance with subsection (e)(2) of this section, the village 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, village forester shall notify the owner of such property and proceed in accordance with the requirements of subsection (d)(3) of this section.

(Code 1988, § 4-4-5)

Sec. 38-227. Assessment of abatement costs.

- (a) The entire cost of abating any public nuisance or spraying trees, as defined in this article, shall be charged to and assessed against the parcel or lot abutting on the street, alley, terrace, boulevard or parkway upon or in which such tree is located, or the parcel or lot upon which such tree stands, in

accordance with Wis. Stats. §§ 22.07, 66.0627. The cost of abating any such nuisance, or part thereof, which is located in or upon any park shall be borne by the village.

(b) The cost of abating a public nuisance or spraying elm trees or elm wood located on private premises, when done at the direction and under the supervision of the village forester, shall be assessed to the property on which such nuisance, tree or wood is located, as follows:

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

(Code 1988, § 4-4-6)

Sec. 38-228. Planting, maintenance and removal permit.

(a) *Required.* Except upon order of the village forester, no person shall plant or remove, or perform major alterations on a tree or shrub in the public right-of-way terrace area, or cause such act to be done by others, without first obtaining a written permit for such work from the village forester as provided in this section. The applicant shall comply with the planting standards of section 38-229.

(b) *Exemptions.* No permit shall be required to cultivate, fertilize or water trees or shrubs, or for work by village personnel on park properties. No permit is necessary to plant trees inside the property line.

(c) *Requirements and conditions.* If the village forester determines that the proposed work or planting described in an application for a permit is necessary and in accordance with the purpose of this

article, taking into account the safety, health and welfare of the public, location of utilities, public sidewalks, driveways and streetlights, general character of the area in which the tree or shrub is located, or proposed to be located, type of soil, characteristics and physiology need of the genus, species and variety of tree or shrub, he shall issue a permit to the applicant.

(d) *Form; expiration; fee.* Every permit shall be issued by the village forester on a standard form, and shall include a description of the work to be done, and shall specify the genus, species and variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work under such permit must be performed in strict accordance with the terms thereof and the provisions of this article. Permits issued under this section shall expire six months after the date of issuance. There will be no charge for such permit.

(e) *Public utilities.*

(1) Whenever a permit is issued to a public utility under this section to remove, trim, prune, cut, disturb, alter or perform surgery on any public tree or shrub, the village forester shall limit the work to be done to the actual necessities of the utility, and may assign an inspector to supervise the work done under the provisions of the permit. The expense of such inspection or supervision shall be charged to the utility at the usual village rate.

(2) A public utility may secure an annual working agreement with the village forester's office, which gives the village forester the authorization to supervise and direct work associated with trees and shrubs.

(Code 1988, § 4-4-7)

Sec. 38-229. Planting.

(a) *Purpose.* The village board determines that the planting, care and protection of the trees within the village is desirable for the purpose of beauty, shade, comfort, noise abatement and economic betterment, and encourages all persons to assist in a program of tree planting, care and protection.

(b) *Program recommendation.* The village forester shall recommend a program to the village board for tree planting, care and protection for public parks. The village board shall also encourage the planting, care and protection of trees and shrubs on private premises within the village.

(c) *Requirements.*

(1) The size, genus, species and variety of trees and shrubs to be planted in public areas and boulevards, and the manner of planting, shall be submitted to the village forester for approval before commencement of such work. The permit application process is required as set forth in section 38-228.

(2) There shall be a minimum distance of 16 feet and a recommended distance of 25 to 50 feet between terrace area trees, depending upon the size of tree and other factors. Terrace trees shall be planted an equal distance between the sidewalk, or proposed sidewalk, and the back of the curb, or proposed back of the curb. In terrace areas less than three feet wide, planting will not be permitted. Terrace area trees shall be a minimum of 25 feet from an intersection.

- (3) Evergreen trees shall not be planted in terrace areas.
- (4) It shall be unlawful within terrace areas to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree, whose growth is in excess of eight inches in height above the top of the nearest curb.
- (5) Tree grates shall be provided by the adjacent property owner for terrace trees surrounded by concrete, and shall be level with the adjacent concrete.

(d) *Unlawful plantings.* Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the village forester may be removed. The village 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. If removal is not accomplished within the time specified, the village may remove such trees, plants or shrubs and assess the cost thereof to the owner.

(e) *Frames and boxes.* Any person adjacent to whose land any shade or ornamental tree or shrub is growing in any street may, for the purpose of protecting such tree or shrub, surround the tree or shrub with a suitable box or frame for protection, but all such work shall be performed under the supervision and direction of the village forester.

(Code 1988, § 4-4-8)

Sec. 38-230. Trimming.

(a) Trees and shrubs standing in or upon any boulevard, public area or 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 14 feet. The village 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 streetlight or endanger public safety.

(b) The necessity of pruning may be determined by the village forester.

(c) Clearance from a sidewalk to the lower branches shall not be less than ten feet. All trees standing upon private property in the village, 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 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 of the crown shall be considered to be a major alteration and shall require a permit from the village forester.

(Code 1988, § 4-4-9)

Sec. 38-231. Obstruction of view at any intersection or of traffic signs.

(a) Notwithstanding any other provisions of this article, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the village 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 tree, bush, 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 village. 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 of a traffic sign shall be deemed to be dangerous to public travel, and the village forester, by written notice, may order the owner or occupant of any private place or premises on which stands a tree or shrub which unreasonably interferes with or encroaches upon the street or a sidewalk to take such steps as are necessary to remove such interference. If such owner or occupant fails to take such necessary steps within ten days of the receipt of such notice, the village forester and/or public works department employees shall order village employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon, or in front of which, such tree or shrub stands.

(d) Any person who is an owner, occupant, firm or corporation failing to obey the written notice of the village forester as specified in subsection (c) of this section shall, upon conviction, be subject to a forfeiture as established in section 1-27.

(Code 1988, § 4-4-10)

Sec. 38-232. Removal of trees and stumps.

(a) *Dangerous, obstructive and infected trees.* Any tree, or part thereof, whether alive or dead, which the village forester shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the village, or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree, or part thereof, is located. The village forester shall give written notice to such owner to remedy the situation, which notice 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 24 hours, nor more than 14 days, as determined by the village 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 the tree within the time limited, the village forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the village administrator, who shall enter such cost as a special charge against the property.

(b) *Removal standards.* When 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 inches below grade, measured in a straight line with the normal grade of the sidewalk to the top of the 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 with topsoil to normal grade level, as soon as practicable.

(c) *Private removal.* No person shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place until the village forester shall have issued a permit. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the village 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 thereon. Such permit shall expressly state the premises upon which the tree stands and the location of the tree on such premises.

(Code 1988, § 4-4-11)

Sec. 38-233. Prohibited acts.

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

- (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, deface, kill or destroy any tree or shrub, or permit any fire to burn where it will injure any tree or shrub.
- (3) Permit any toxic chemicals, 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 any tree or shrub.
- (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 which is designed to permit access of air, water and fertilization.
- (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nail, screw or other device to any tree, except the village 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 the persons responsible for such work to prevent any injury to such trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten feet from any public tree without a permit from the village forester.

(c) *Interference with the village forester.* No person shall:

- (1) Interfere with or prevent any acts of the village forester, his agents or employees while they are engaged in the performance of duties imposed by this article.
- (2) Refuse to permit the village forester or his duly authorized representative to enter upon such person's premises, at reasonable times, to exercise the duties imposed by this article.

(d) *Refusal to abate nuisance.* No person shall permit any public nuisance to remain on any premises

owned or controlled by him when ordered by the village forester to abate such a nuisance.
(Code 1988, § 4-4-12)

Sec. 38-234. Appeal from determination or orders.

Any person who receives a determination or order from the village forester under this article, and objects to all, or any part thereof, shall have the right to appeal such determination or order to the village board, subject to the provisions of Wis. Stats. ch. 68, within seven days of the receipt of the order, and the village board shall hear such appeal within 30 days of receipt of written notice of the appeal. After such hearing, the village board may reverse, affirm or modify the order or determination appealed from, and the grounds for the village board's decision shall be stated in writing. The village board shall, by letter, notify the party appealing the order or determination of its decision within ten days after the hearing has been concluded. The village board shall file its written decision with the village administrator.

(Code 1988, § 4-4-13)

Chapters 39-41
RESERVED