

## **CHAPTER 6 PUBLIC WORKS**

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## CHAPTER 6 PUBLIC WORKS

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### SECTION 6.01 Definitions.

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

- (a) **Boulevard or Terrace Areas.** Boulevard and/or terrace areas shall have interchangeable meanings within this Section. Boulevard or terrace areas are defined as the land between the location of the street curb and the edge of the sidewalk closest to the street. Where there is no sidewalk, the area four (4) feet from the curb line shall be deemed to be a terrace. Where there is no curb, the area between the edge of the pavement and the edge of the sidewalk closest to the pavement shall be deemed a terrace. Where there is no sidewalk or curb, the area four (4) feet from the edge of the pavement measured inward toward the lot shall be considered at terrace.
- (b) **Evergreen Tree.** Any woody plant normally having one (1) stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.
- (c) **Forester.** Person or Village employee designated by the Village Board as authorized to carry out provisions of this Section.
- (d) **Major Alteration.** Trimming a tree beyond trimming necessary to comply with this Chapter.
- (e) **Person.** An individual or a group of people, a firm, association, corporation or other legal entity.
- (f) **Public Areas.** Includes all public parks and other lands owned, controlled or leased by the Village except the terrace areas.
- (g) **Public Nuisance.** Any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; is infected with a plant disease; is infested with injurious insects or pests; is injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (h) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.
- (i) **Shrubs.** Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (j) **Tree.** Any woody plant, normally having one (1), stem or trunk bearing its foliage or crown well above ground level.

### SECTION 6.02 Establishment of Grades.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by the Village Engineer and approved by the Village Board. No street, alley or sidewalk shall be worked on until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by

ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.

- (b) **New Street or Sidewalk Grade.** Whenever a street shall be constructed, improved for the first time, or the grade thereof changed and the street improved so as to conform to the new grade, the Village Engineer shall establish the sidewalk grade, and the grading of the sidewalk shall be considered part of the improvement. The construction of sidewalk 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, except the expense shall be paid by the owners of the abutting lots or parcels of land as hereinafter provided.

### **SECTION 6.03      Alteration of Grade Prohibited.**

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Arlington by any means whatsoever unless authorized or instructed to do so by the Village Engineer.

### **SECTION 6.04      Removal of Rubbish and Dirt From Sidewalks.**

No owner or occupant shall allow the sidewalk abutting 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 after receiving forty-eight (48) hours notice to do so by the Village Board or its designee, the Village Board or its designee may cause the same to be done and report the cost thereof to the Village Clerk-Treasurer who shall attach the cost on the owner's property tax bill as a special charge against the property, pursuant to Sec. 66.0627, Wis. Stats., or such cost may be recovered in an action against the owner.

### **SECTION 6.05      Construction and Repair of Sidewalks; Cost of Curb and Gutter.**

- (a) **Board May Order.** The Village Board shall determine when sidewalks or curb and gutter shall be constructed and laid along or upon any public street, right-of-way or highway within the Village. The Village Engineer shall determine the width and grade of any sidewalk to be constructed.
- (b) **Apportionment of Curb and Gutter Costs.**
  - (1) If the Village Board determines that curb, gutter or sidewalk be constructed and laid along or upon any street, ally or highway within the Village, it shall proceed according to the Special Assessment process as set forth in Chapter 66 of the Wisconsin Statutes, as may be amended from time to time.
  - (2) Curb and gutter in new subdivisions shall be installed by the Developer, at the Developer's sole cost, pursuant to the Village's Subdivision Ordinance, and any Development Agreement between the Developer and the Village.
  - (3) Any developer, contractor or land owner that causes damage to any curb, gutter or sidewalk during construction on any lot within the Village shall be

responsible for any costs necessary to repair or replace the damaged curb, gutter or sidewalk. The precedent set forth in (e) below shall apply.

- (c) **Unsafe or Defective Sidewalks.** The Village Board may at any time order any sidewalk which is unsafe or defective pursuant to the terms of this paragraph to be removed and replaced with a sidewalk in accordance with the standards set forth in this Section. The existence of any one or more of the hereinafter enumerated characteristics shall determine whether a sidewalk is unsafe or defective:
- (1) Three-fourths (3/4) inch or more vertical differential between adjacent sharp edged individual sidewalk blocks (crack in slab) and between adjacent round edge individual sidewalk blocks (joint).
  - (2) One and one-fourth (1¼) inch horizontal distance between adjacent individual sidewalk blocks or deterioration of the surface to a vertical depth of one-half (1/2) inch or more within each individual sidewalk block.
- (d) **Illegal Sidewalks.** Sidewalks which are declared by the Village Board to be illegal shall be completely replaced. An illegal sidewalk is:
- (1) If eighty percent (80%) or more of a property owner's sidewalk blocks are determined to be defective or insufficient pursuant to paragraph C above;  
or
  - (2) Constructed contrary to the provisions of this Section.
- (e) **Process for Repair or Replacement.** Pursuant to Section 66.0907, the Village Board may order any sidewalk which is unsafe or defective to be repaired or removed and replaced with a sidewalk in accordance with the standards established by the Village Engineer. A copy of the order directing the removal, replacement or repair of the sidewalk shall be served upon the owner, or an agent, of each lot or parcel of land in front of which the work is ordered. Service of the notice shall be made by personal delivery, certified mail, or publication in the official newspaper as a Class 1 Notice together with mailing by first class mail if the name and mailing address of the owner or an agent can be readily ascertained. If the owner neglects for a period of twenty (20) days after service of notice to remove, replace or repair the sidewalk, the Village may cause the work to be done at the expense of the owner. All work for the construction of sidewalks shall be let by contract to the lowest responsible bidder. The amount charged to each lot or parcel of land shall be entered by the Clerk in the tax roll as a Special Charge against the lot or parcel of land and collected like other taxes upon real estate. If the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed the sum of one hundred dollars (\$100.00), the Village Public Works Department, if so ordered by the Village Board, may immediately repair the sidewalk without notice and charge the cost of the repair to the owner of the lot or parcel of land.

## **SECTION 6.06      Excavation of Streets, Alleys, Public Ways and Grounds.**

- (a) **Permit Required.** No person or entity, their agents, 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 of Arlington without a permit from the Village Clerk.
- (b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the Village Clerk, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work the method applicant proposes to use in doing the work, and the projected length of time of the project. The Village Clerk shall determine if sufficient information is submitted.
  - (c) **Exception.** The provisions of this Section shall not apply to Village excavation work done under the direction of the Village Board.
  - (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6.07(g) for pavement replacement
  - (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the Village Clerk prior to the expiration of the original permit. Permit renewals shall be issued at the discretion of the Village Clerk.
  - (f) **Village Standards; Fees.**
    - (1) **Village Standards.** All street work shall be performed in accordance with the current standards for street openings found in this Section and Section 6.07. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored by the permittee to the condition it was in prior to damage.
    - (2) Along with any application for a permit, each applicant shall post the sum as established by Resolution of the Village Board with the Village Clerk. Of this sum, one hundred dollars (\$100.00) is the actual fee for the street opening permit. The remaining sum will be held in escrow by the Village Clerk. The purpose of this escrow is to ensure that following the street opening, the area is returned to the condition it was in prior to the street opening, and to cover any Village expenses associated with the street opening project. Upon completion of the street opening, the Village Clerk, or his designee, shall inspect the area and if the area is returned to its original condition, the Village Clerk shall return all escrowed funds to the applicant, less any fees expended to cover actual Village expenses.
  - (g) **Insurance Required.** A permit shall be issued only upon the condition that the applicant submit to the Village Clerk satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than five hundred thousand dollars (\$500,000.00) per one (1) person, five hundred thousand dollars (\$500,000.00) for one (1) accident and property damage coverage of not less than one million dollars (\$1,000,000.00).
  - (h) **Bond.** The permittee shall guarantee the quality of the work performed and be responsible for one (1) year from the date of the completion of the work and shall file a written surety bond to that effect with the Village in an amount determined by the Village Board to be necessary to adequately protect the public and the Village.

(i) **Indemnification.**

- (1) In addition to the bond required in (h) above, before a permit for excavating or opening any street, alley or public way may be issued, the applicant must sign a statement that he will indemnify and hold harmless the Village of Arlington and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made, and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Village Board for a period of one (1) year, and that he will pay all fines or forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the 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 of maintaining the same for one (1) year.
- (2) If the Village Board finds that any such work has become defective within one (1) year of the date of completion, it shall give written notice thereof to the contractor stating the defect, the work to be done, the cost thereof and the period of time deemed by the Village Board to be reasonably necessary to complete said work. After receipt of such notice, the contractor 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.
- (3) 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 (1) year revocation of the right to obtain a street opening permit. Further, the Village shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.

**SECTION 6.07 Regulations Governing Excavations and Openings.**

- (a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and April 1st except where it is determined by the Village Board or its designee to be an emergency excavation.
- (b) **Protection of Public.**
  - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Village Board or its designee. Sufficient warning lights shall be kept on from sunset to sunrise. No open flame warning devices shall be used. Except by special permission from the Village Clerk, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or

conduit lying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.

- (2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
  - (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.
  - (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Village Clerk twenty-four (24) hours prior to commencement of excavation of the location and extent of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6.07(h).
  - (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6.07(h).
- (c) **Pavement Removal.**
- (1) Removal of existing pavement shall be in neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his work and in accordance with all applicable codes and regulations.
  - (2) If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. Should the street opening occur within adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Village Engineer shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
  - (3) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb line or the

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

- (4) The Village Engineer may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.

(d) **Excavation.**

- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage and natural watercourses shall not be obstructed.
- (2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

(e) **Backfilling.**

- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than four (4) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Village Engineer, is unsuitable for backfill material.
- (2) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material that is approved by the Village Engineer (prior to use), and hauled in.
- (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
- (4) Mechanical compaction shall be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted to a dry density of at least ninety-five percent (95%) of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.
- (5) All excavations shall be subject to testing by the Village. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.
- (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.

- (f) **Notice.** It shall be the duty of the permittee to notify the Village Clerk and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The



Village Clerk shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

(g) **Pavement Replacement.**

- (1) Backfill material shall be left below the original surface to allow for four (4) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial Street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.
- (2) Bituminous pavement shall be placed at/to the full depth of the existing pavement or two and one-half (2½) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of a one and one-half (1½) inch base layer and a one (1) inch top layer, with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge.
- (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by Village officials.
- (4) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three (3) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1<sup>st</sup>, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.

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

(i) **Excavation in New Streets Limited.** Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such

determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Village Clerk shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street will be completed by a time established by the Village Board as set forth in the notice. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces during this construction period. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Village Board or its designee, conditions exist which make it absolutely essential that the permit be issued.

## **SECTION 6.08      Obstructions and Encroachments.**

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsection (b).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
  - (1) Temporary encroachments or obstructions authorized by permit under Section 6.09 of this Section.
  - (2) Building materials for the period authorized by the Building Inspector which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
  - (3) Excavations and openings permitted under Sections 6.06 and 6.07 of this Code.
  - (4) Owners in commercial areas may place certain fixtures on sidewalks which immediately adjoin their property if the following requirements are met:
    - a. The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
    - b. The placement of the fixture shall not significantly impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than three (3) feet at any point.
- (c) **Removal by Village for Obstruction and Encroachments Located in the Village Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if any Village official determines that a Village sidewalk, street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he shall issue a written notice to the property owner

of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.

- (d) **Failure to Remove Obstruction.** If the owner or occupant fails to remove the obstruction within the time period established in Section (c) above, any Village official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the property owner and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the Village Clerk shall enter those charges onto the tax roll as a special tax as provided by the State Statutes. The failure of the Village Clerk to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the Village expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

## **SECTION 6.09 Street Privilege Permit.**

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways of the Village for the purpose of moving any building or structure or encumbering the street, alley, sidewalk or way with materials necessary for the construction or demolition of any building or structure, may be granted to applicants by the Village Clerk provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Village Clerk may request advisory recommendations from the Building Inspector prior to issuance of the permit.
- (b) **Bond.** No permit issued pursuant to this Section shall be issued until the applicant has executed and filed with the Village Clerk a bond in an amount determined by the Village Clerk, not to exceed ten thousand dollars (\$10,000.00). The purpose of the Bond is to ensure the permittee will leave the area 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. Upon completion of the project, or expiration of the permit, the Village Building Inspector shall inspect the area, and if the area is cleaned and repaired to the satisfaction of the Building Inspector, the bond shall be released. If not, the Village, at its discretion may enforce the bond or require the permittee to repair the damage.
- (c) **Insurance.** In addition to posting the bond as set forth in paragraph (b) above, a permit shall be issued only upon the condition the applicants submit to the Village Clerk satisfactory written evidence that the applicant has enforced and will maintain during the time the permit is in effect public liability insurance of not less than five hundred thousand dollars (\$500,000.00) per person, five hundred thousand dollars (\$500,000.00) per accident and property damage coverage of not less than one million dollars (\$1,000,000.00).
- (d) **Fee.** The fee for a street privilege permit shall be set by resolution of the Village Board.

- (e) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Village Clerk, or Building Inspector for violation thereof:
- (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
  - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
  - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
  - (4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Village Board, 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 Village Board.
  - (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.
- (f) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Village Clerk.
- (g) **Removal by Village.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk shall remove or neglect to remove such obstruction within twenty-four (24) hours after such notice from the Village Clerk to do so, it shall be the duty of the Village Department of Public Works to remove such obstruction and report the costs and expenses thereof to the Village Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

#### **SECTION 6.10 Removal from Sidewalks and Hydrants.**

- (a) **Removal from Sidewalks.** The owner or occupant of any parcel or lot which fronts upon or abuts any sidewalk shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases to

accumulate on said sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four (4) feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians.

- (b) **Removal from Hydrants.** The owner or occupant of any parcel or lot which contains a fire hydrant within the parcel or lot, or contains a fire hydrant which is situated in the Village right-of-way abutting a parcel or lot, shall take all steps necessary to keep the fire hydrant clear of all snow and ice. For purposes of this paragraph, the owner or occupant should keep all snow and ice at least two (2) feet away from all four sides of the fire hydrant. In the event of snow accumulating due to natural means and/or by any other means, the hydrant shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases to accumulate near the hydrant.
- (c) **Notice and Removal of Snow from Sidewalks.** If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection (a), Village officials shall take the following action:
  - (1) **Hazardous Conditions.** If a Village official 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 and occupant of any parcel or lot directing that the snow and ice be removed within ten (10) hours from the delivery of the notice. In the event the owner or occupant of said parcel or lot is unavailable to receive a written notice, the Village official shall immediately cause the removal of the snow and/or ice. The Village official shall send a written notice to the last-known address of the property owner notifying him that a hazardous condition existed which required immediately abatement.
  - (2) **Snow and Ice Not to Encroach.** No person shall push, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use, except for parcels or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the Village right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets.
- (c) **Enforcement.** All Village officials are hereby authorized and directed to enforce the provisions of this Section.
- (d) **Continued Violations.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this Section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this Section.
- (e) **Abatement after Notice.** Failure of the owner or occupant of any parcel or lot to cause the removal of snow and/or ice within the time established under

Subsection (b)(1) and (2) after receiving a written notice shall result in the Village causing the removal of said snow and/or ice.

- (f) **Expense.** An account of the expenses incurred by the Village to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last- known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the Village Clerk shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.0907, Wis. Stats.
- (g) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1.06 of this Code of Ordinances.

#### **SECTION 6.11 Terrace Areas.**

- (a) **Definition.** The definition of “terrace” shall be as defined in Section 6.01(a).
- (b) **Noxious Weeds; Paving.** All that part of the terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Village Board or its designee. Basketball backstops, statuary, structures, flag poles and other objects shall not be placed in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the 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.

#### **SECTION 6.12 Vaults.**

All vaults and cisterns under sidewalks shall be prohibited.

#### **SECTION 6.13 Requests for Improvements.**

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

#### **SECTION 6.14 Unlawful Dumping on Streets.**

No person shall deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property.

## **SECTION 6.15      Obstruction of Public Ditches.**

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

## **SECTION 6.16      Street Numbers.**

- (a) **Uniform Numbering System.** A uniform system of numbering properties and principal buildings, as shown on the map identified by the Official Village Map, which is filed in the office of the Village Clerk, is hereby adopted for use in the Village of Arlington. This map and all explanatory matters thereon, is hereby adopted and made a part of this Section by reference.
- (b) **Assignment of Numbers.**
  - (1) All properties or parcels of land within the boundaries of the Village of Arlington shall hereafter be identified by reference to the uniform numbering system adopted herein.
  - (2) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one (1) business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.
- (c) **Street Numbers to Be Displayed.** The owner or occupant of the parcel or lot shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him, the official street number assigned to that building as provided in (a) hereof. The physical numbers provided herein shall be not less than (2½) inches high on a background of not less than three (3) inches. Each number shall be affixed on the particular building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts. For buildings also abutting a public alley, the street number shall be affixed in such location that it may be seen in like manner from such alley.
- (d) **Noncompliance.** If the owner or occupant of any building neglects for twenty (20) days to duly attach and maintain the proper numbers on the building, the Village shall serve him a notice requiring him to properly number the same, and if he neglects to do so for ten (10) days after service, he shall be subject to a forfeiture as provided in Section 1.06.

## **SECTION 6.17      Placement of Mailboxes.**

Mailboxes are prohibited in the right-of-way of all streets within the Village of Arlington except as hereinafter provided:

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

- (b) Newspaper tubes are permitted only if provided by the newspaper and are of a construction or design that will not present a hazard to the public use of the right-of-way.
- (c) A nameplate bearing the name and address number of the mailbox owner shall be permitted on each box.
- (d) The support for the mailbox and newspaper tube shall adhere to the standards governing construction of mailbox supports as established by the Wisconsin Department of Transportation and the United State Postal Service and shall not constitute a hazard to the public use of the right-of-way.
- (e) Mailbox and newspaper tubes must be located on the side of the street required by the United States Postal Service and so that the door to the mailbox or protruding end of the newspaper tube is at least one (1) foot from the paved portion of the street.
- (f) The owner of each mailbox and/or newspaper tube shall, within twenty-four (24) hours after the end of each snowfall, remove all snow and ice which has fallen or accumulated in front of said mailbox and/or said newspaper tube and shall remove the snow for a distance of fifteen (15) feet to each side of said mailbox and/or newspaper tube.
- (g) No other object of any kind shall be attached to the mailbox, newspaper tube or their supports. No other objects, including, but not limited to, landscaping boulders, address/driveway standards, or fences may be placed on the right-of-way.
- (h) This Section is not intended to and shall not be construed to create any affirmative duty on the part of the Village of Arlington to locate and remove obstructing mailboxes, although the Village reserves the right to take such action.

#### **SECTION 6.18 Mailbox Replacement.**

- (a) The Village of Arlington will replace, pursuant to this Section, mailboxes damaged on the Village street system where it has been determined that:
  - (1) Physical damage, which can be proven and documented by the owner or by the Village, was caused by actual physical contact with Village equipment;
  - (2) The mailbox is of standard design and placed in conformance with United States Post Office standards; and
  - (3) The existing installation, mailbox and mailbox post were in good repair.
  - (4) Damage to the mailbox and/or mailbox post caused by the weight of plowed snow shall not qualify as physical damage for the purposes of this Section.
- (b) The replacement of mailboxes by the Village of Arlington shall be limited to a twenty-five dollar (\$25.00) payment no more than once per calendar year. Special decorative mailboxes and/or posts will not be provided. If the owner wishes to install a decorative mailbox and/or post that meets standards, it shall be at the owner's expense. Replacement mailboxes will not be erected by the Village.



## **SECTION 6.19 Driveway Permit Required.**

- (a) **Purpose.** 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. 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) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or other legal entity shall construct, 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 of Arlington without first obtaining a driveway permit therefore as provided by this Chapter. A driveway permit is not required when a new driveway is to be constructed in conjunction with the construction of a new principal structure; the driveway is included in the building permit process in such cases.
- (c) **Application.** Application for a driveway permit shall be made to the Village Clerk on a form provided by the Village and shall be accompanied by a drawing accurately depicting the portion of the proposed driveway to be constructed, 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 fee for a driveway permit shall be established by the Village Board by Resolution. Upon receipt of the application and the fee, the Village Clerk shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable Village ordinance.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:
  - (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the dedicated portion of the Village street, or for any other purpose.
  - (2) The Village, notwithstanding the construction of such driveway, 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) The permittee, his successors or assigns, agrees to indemnify and hold harmless the Village of Arlington, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
  - (4) The 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.

## SECTION 6.20 Driveway Location, Design and Construction Requirements.

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
- (1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and its appurtenances are within the limits of the frontage abutting the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be located and constructed so that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Village Board, and driveways shall, in all cases, be placed wherever possible so not to interfere with utilities in place.
  - (2) **Number.** The number of driveways to serve an individual property fronting on a street shall be one (1), except where deemed necessary and feasible by the 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 (6).
  - (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 Sidewalks and Curb and Gutter.** When the construction of a driveway requires the removal of a curb or gutter, the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk.
  - (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, a permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the 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 constructed in accordance with the requirements for sidewalk construction in Section 6.05 of this Code insofar as such requirements are applicable, including thickness requirements.
  - (9) **Variances.** Any of the above requirements may be varied by the Village Board in such instances where the peculiar nature of the property or the design of the street may make the rigid adherence to the above requirements impossible or impractical.
- (b) **Special Requirements for Commercial and Industrial Driveways.** The following regulations are applicable to driveways serving lots that are zoned either commercial or industrial:
- (1) **Width of Drive.** No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width greater than thirty (30) feet measured at right angles to the center line of said driveway, except as increased by permissible radii. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Village Board in its discretion may permit a driveway of additional width.
  - (2) **Angular Placement of Driveway.** The angle between the center line of the driveway and the curb line shall not be less than forty-five degrees (45°).
  - (3) **Island Areas.** Where the public sidewalk is adjacent to the curb, an island of a minimum length of six (6) feet measured along the curb line shall be placed between each entrance to a 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 (10) 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 curb line. A curb length of not less than three (3) feet shall be left undisturbed adjacent to each property line to serve as an island area in the event an adjoining property owner applies for a driveway permit to serve his property.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:

- (1) **Width of Driveways.** Openings for vehicular ingress and egress shall be at least ten (10) feet wide at the property line for residential properties, but shall not exceed twenty-four (24) feet at the property line and thirty (30) feet at the curb opening.
- (2) **Angular Placement.** The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.
- (d) **Appeal from Permit Refusal.** Any person feeling himself aggrieved by the refusal of the Village Clerk to issue a permit for a private driveway may appeal such refusal to the Village Board within twenty (20) days after such refusal to issue such permit is made.
- (e) **Prohibited Driveways.**
  - (1) No person, firm or other legal entity shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Village of Arlington except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
  - (2) No driveway shall be closer than ten (10) feet to the extended street line at an intersection. At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village for effective traffic control or for highway signs or signals.
  - (3) The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
  - (4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
  - (5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved, shall extend beyond the culvert spanning the water course located in such public way.
- (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 twelve (12) inches in diameter (equivalent elliptical or arch pipe) shall 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 or Village Engineer.
  - (2) **Gauge.** The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

<u>Pipe Diameter</u>	<u>Gauge</u>
15 to 24 inch	16
30 to 36 inch	14
42 to 54 inch	12
60 to 72 inch	10
78 to 84 inch	8

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

<u>Height of Cover (in feet)</u>	<u>Class of Pipe</u>
0-2	V
2-3	III
3-6	II

- (3) **Drainage.** The culverts shall be placed in the ditchline at elevations that will ensure proper drainage, as directed by the Village Engineer.
- (4) **Endwalls.** Culverts shall be provided with a concrete or metal apron endwalls as directed by the Village Engineer.
- (5) **Backfill Material.** Material used for backfill shall be of quantity acceptable to the Village Engineer 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 (6) inches.
- (6) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Village Engineer.
- (7) **Distance.** The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled pursuant to Subsection (a)(6).
- (8) **Cost.** 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.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Village Clerk, 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 may be asked to render an opinion on the request.

**SECTION 6.21 Statement of Policy Regarding Trees and Shrubs and Applicability of Chapter.**

- (a) **Intent and Purpose.** It is the policy of the Village of Arlington to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the Village to eliminate and guard against dangerous conditions which may result in injury to

persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the Village; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrub both public and private within the Village, against the spread of disease, insects or pests.

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

#### **SECTION 6.22 Authority of Village Forester to Enter Private Premises.**

- (a) The Village Board may designate a municipal employee or citizen to perform the duties of Forester under Chapter 27, Wis. Stats., and may authorize such Forester to perform the powers imposed on the Village Board by this Section. 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 which may be subject to the provisions of this Section.

#### **SECTION 6.23 Interference with Village Forester Prohibited.**

- (a) No person shall interfere with or prevent any acts of the Village Forester or his authorized representative (agents or employees) while he is engaged in carrying out any work or activities authorized by this Section.
- (b) No person shall refuse to permit the Forester or his authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Chapter.

#### **SECTION 6.24 Abatement of Tree Disease Nuisances.**

- (a) **Definitions.** As used in this Chapter, unless otherwise clearly indicated by the context:
  - (1) **Tree Related Public Nuisance** means:
    - a. Fatal or deleterious tree diseases.
    - b. Insects that carry fatal or deleterious tree disease.
    - c. Any living or standing tree or part thereof infected with a fatal tree disease or in a weakened condition which harbors any insect that carries a fatal or deleterious tree disease.
    - d. Any dead tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective insect destroying concentrate.
    - e. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using

or upon any public street, sidewalk, alley, park or other public or private place, including the terrace strip between curb and lot line.

- (2) **Public Property** means property owned or controlled by the Village, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks and boulevards.
  - (3) **Person** means person, firm, corporation or other legal entity.
- (b) **Tree Diseases a Public Nuisance.** Whereas 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 including but not limited to Dutch Elm disease, Oak Wilt and the Emerald Ash Borer, the Village Board hereby declares its intention to control and prevent the spread of such diseases and the insect pests and vectors which carry such diseases and specifically declare diseases of this nature and the insects which carry such disease to be public nuisances.
- (c) **Inspection.**
- (1) The Village Forester, or his authorized representative, shall inspect or cause to be inspected all premises and places within the Village to determine whether any tree related public nuisance exists thereon. He shall also inspect or cause the inspection of any tree reported or suspected to be infested with disease or any bark bearing materials reported or suspected to be infested with disease carrying insects.
  - (2) Whenever necessary to determine the existence of a tree related public nuisance in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.
  - (3) The Forester and his agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.
- (d) **Abatement of Nuisances; Duties of Forester.**
- (1) Following authorization by the Village Board, the Forester shall order, direct, supervise and control the abatement of tree related public nuisances as defined in this Section by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread fatal or deleterious tree diseases or the insect pests or vectors known to carry such diseases.
  - (2) Whenever the Forester, after inspection or examination, shall determine that a tree related public nuisance as herein defined exists on public property in the Village, he shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of fatal or deleterious tree diseases, or the insect pests or vectors known to carry such disease fungus.

- (3) When the Forester shall determine with reasonable certainty that a tree related public nuisance exists upon private premises, he shall immediately serve or cause to be served personally or by certified mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the Village, the Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Village.
- (5) If, after hearing held pursuant to this Subsection, it shall be determined by the Village Board that a tree related public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section or subsection. The Forester may extend the time allowed to the property owner for abatement work but not to exceed ten (10) additional days.

(e) **Spraying.**

- (1) Whenever the Forester determines that any tree or part thereof is infected with a fatal or deleterious tree disease or is in a weakened condition or harbors insects that carry tree related public nuisances, he may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide, following prior authorization by the Village Board.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall give advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the Forester shall also notify the Village Clerk who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each block of any affected street at least twenty-four (24) hours in advance of spraying operations.
- (3) When appropriate warning notices and temporary "no parking" notices have been given and posted, 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, the Forester shall notify the owner of such property and proceed in accordance with the requirements of this Subsection.

## **SECTION 6.25 Assessment of Costs of Abatement.**

- (a) **Public Premises.** The entire cost of abating any public nuisance or spraying any tree, or part thereof, when done at the direction of the Forester shall be borne by the Village as to any growth, tree or shrub located upon property owned by the Village. The abating of a public nuisance or spraying trees or wood located upon a terrace shall be considered private property, and subject to paragraph (b) below.
- (b) **Private Premises.** The cost of abating a tree related public nuisance or spraying diseased trees located on private premises when done at the direction and under the supervision of the Forester shall be assessed to the property on which such tree related public nuisance, tree or wood is located as follows:
  - (1) The Forester shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the Village Board on or before October 15 of each year.
  - (2) Upon receiving the Forester's report, the Village Board shall hold a public hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the 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 or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
  - (4) The Village Clerk shall mail notice of the amount of such final assessment to each owner of property assessed his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.
  - (5) The Village hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof.

## SECTION 6.26 Planting of Trees and Shrubs.

- (a) **Purpose.** The Village Board hereby states its determination that the planting, care and protection of the trees within the Village is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.
- (b) **Tree Planting Program.** The Forester shall recommend to the Village Board a program 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) **Cottonwood and Box Elder Trees Prohibited.** No person shall plant within the Village of Arlington any female tree of the species *Populus Deltoides*, commonly called the "Cottonwood," or any tree commonly called the seed-bearing Box Elder *Acer Negundo*, which may now or hereafter become infested with Box Elder Bugs, and such trees are hereby declared a public nuisance. Any person planting any such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within thirty (30) days after receiving written notice from the Forester, the Village shall cause the removal of such tree and report the full cost thereof to the Village Clerk who shall place such charge upon the next tax roll as a special charge against the premises.
- (d) **Planting of Certain Trees Restricted.** No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Weeping Willow, Evergreen, Lombardy Poplar or any fruit or nut tree in or upon any public street, parkway, terrace or other public place within the Village of Arlington unless he shall first secure written permission from Forester, who shall not approve any such planting if, in his opinion, said tree will constitute a nuisance (to the public or adjoining property owners) or interfere with the safety of the public or the operation of any sewer or water system. The Village Forester shall cause the removal of any tree planted in violation of this Subsection.
- (e) **Planting of Street Trees.**
  - (1) All new street trees must be selected from a list of approved trees compiled by the Village Forester. No other species may be planted without the written approval of the Forester. New trees must be single stemmed with a minimum diameter of one and one-quarter (1¼) inches measured at six (6) inches above ground level.
  - (2) The tree shall be planted in a well prepared hole at the same depth as it was originally growing. All trees less than twelve (12) feet in height shall be staked. All trees twelve (12) feet or more in height shall be supported by guy wires in such a way as not to injure the bark. The support shall be removed after one (1) year.
  - (3) The tree shall be kept well watered and mulched or cultivated in a two (2) foot diameter around its base to conserve moisture and as a protection from lawn mower damage.

- (4) The good health of all trees planted hereunder shall be guaranteed for one (1) year by the applicant, after which time such trees shall become the property of the Village.
- (5) Where required, curbs and sidewalks must be installed prior to street tree planting. Distance between the face of the curb and the outer edge of the sidewalk must be at least five (5) feet. Trees must be planted half way between the sidewalk and curb unless underground utilities prevent such planting. No tree shall be planted closer than two (2) feet from the curb.
- (6) Street trees may not be planted in the terrace closer than:
  - a. Twenty (20) feet to a utility or street lighting pole.
  - b. Fifteen (15) feet to a driveway or alley.
  - c. Six (6) feet to a fire hydrant, water stop box or gas shut-off. If possible, allow more distance than six (6) feet.
  - d. Twenty-five (25) feet to the intersection of two (2) streets from either corner measured on the property line.
  - e. Twenty-five (25) feet to another tree. (If the other tree is an elm or other species which is damaged, injured or diseased and likely to be removed in the future, then a thirty-five (35) foot distance to the next nearest healthy tree will prevail.)
- (7) New street trees shall not be planted over an existing tree stump within two (2) years of removal unless the stump is removed to a depth of four (4) feet.
- (8) The property owner has the responsibility to locate underground utilities before digging.
- (9) Evergreen trees shall not be planted in a terrace area.
- (f) **Unlawfully Planted Trees.** Street trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the Forester may be removed. The Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the Village may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (g) **Frames.** Any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame for protection, but all such work shall be performed under the supervision and direction of the Forester.

**SECTION 6.27      Trimming.**

- (a) Any person growing a tree, plant or shrub on any private property abutting on public streets or public places shall:
  - (1) Trim them so as not to be a hazard to persons using the streets or to interfere with the proper lighting of the streets.

- (2) Treat or remove any tree, plant or shrub which the Forester shall determine is diseased or insect-ridden or a hazard to persons using the streets.
- (3) Remove and refrain from planting any tree, plant or shrub designated by the State Department of Agriculture and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest.
- (b) Trees and shrubs standing in or upon any boulevard, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (c) The necessity of the pruning may be determined by the Forester.
- (d) Clearance from sidewalk to lower branches shall not be less than ten (10) 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 (10) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (e) Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require authorization from the Forester.

**SECTION 6.28      Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.**

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the 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 trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the 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 the view of a traffic sign shall be deemed to be dangerous to public travel and the Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the Forester and/or other Village employees shall order the 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 which 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 Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to forfeiture as established in Section 1.06 of this Code of Ordinances.

### **SECTION 6.29 Prohibited Acts.**

- (a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the Village Forester in the case of a street tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
  - (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
  - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
  - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.
  - (4) Remove any guard, stake or other device or material intended for the protection of a tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
  - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the Village may tie temporary signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
  - (6) Cause or encourage any fire or burning near or around any tree.
- (b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the Forester.
- (c) **Refusal to Abate Nuisance.** Permit any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

### **SECTION 6.30 Appeal from Determinations and Orders.**

Any person who receives a determination or order under this Chapter from the Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Chapter 4 of this Code of Ordinances, to the Village

Board within seven (7) days of receipt of the order and the Village Board shall hear such appeal within thirty (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 its 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 (10) days after the hearing has been concluded. The Board shall file its written decision with the Village Clerk.

### **SECTION 6.31 Adoption of State Statutes.**

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

### **SECTION 6.32 Curbside Brush and Leaf Collection.**

- (a) **Brush Collection.** The Village establishes the following restrictions on its curbside collection of tree limbs, branches, brush, and small shrubs, collectively known herein as “brush”:
- (1) Brush shall be collected on the second Monday of each month from April through November. Brush shall also be collected, as necessary, following storms or severe wind events or if the Village requires that the property owner trim brush on the property to comply with street or sidewalk clearance requirements. If brush cannot be collected on a scheduled or announced brush collection day, it shall be collected as soon thereafter as is practical.
  - (2) Brush shall not be collected if it exceeds 7 feet in length or 4 inches in diameter. This limitation shall not apply if the Village requires that the property owner trim brush on the property to comply with street or sidewalk clearance requirements.
  - (3) The Village shall only collect one brush pile from each household for each month that brush is collected. Brush piles shall not exceed 4 feet in height and 8 feet in width. This limitation shall not apply if the brush placed at the curb is the result of a storm or a severe wind event or if the Village requires that the property owner trim brush on the property to comply with street or sidewalk clearance requirements.
  - (4) Brush shall be stacked neatly with a cut end facing and perpendicular to the curb.
  - (5) Brush shall not be placed in the street or upon a public sidewalk.
  - (6) Brush shall not be permitted to be placed at the curb or within a public right-of-way until 5 days before a scheduled or announced brush pickup day. This limitation shall not apply if the brush placed at the curb is the result of a storm or a severe wind event or if the Village requires that the property owner trim brush on the property to comply with street or sidewalk clearance requirements.
  - (7) Brush shall be placed at the curb by 7:00 a.m. on the scheduled or announced brush pickup day.
  - (8) Commercially cut brush shall not be collected by the Village. It shall be

- removed from the premises by the contractor as soon as is practical.
- (9) Stumps and root balls shall not be collected by the Village.
  - (10) Christmas trees shall be collected every Monday during the month of January.
- (b) **Leaf Collection.** The Village establishes the following restrictions on its curbside collection of leaves, flowers, thatch, weeds, and non-woody garden materials, collectively known herein as “leaves”:
- (1) Leaves shall be collected on the second and fourth Mondays of April and October and the second Monday of November. If leaves cannot be collected on those dates, it shall be collected as soon thereafter as is practical.
  - (2) Leaves shall be placed in a sturdy plastic container for disposal.
  - (3) Leaves shall not be placed in the street or upon a public sidewalk.
  - (4) Leaves shall not be permitted to be placed at the curb or within a public right-of-way until 5 days before a scheduled or announced leaf pickup day.
  - (5) Leaves shall be placed at the curb by 7:00 a.m. on the scheduled or announced leaf pickup day.
  - (6) At no time shall grass clippings be collected by the Village.
- (c) **Enforcement.** All Village officials are hereby authorized and directed to enforce the provisions of this Section.
- (d) **Notice.** If a Village official determines that a violation of this Section exists, that official shall cause the issuance of a written notice to the owner and occupant of any parcel or lot outlining the violation that exists and directing that the violation shall be abated within ten (10) calendar days from the delivery and receipt of said notice.
- (e) **Abatement after Notice.** Failure of the owner or occupant of any parcel or lot, upon receiving a written notice, to cause the abatement of a violation of this Section within the time established under Subsection (d) shall result in the Village causing the abatement of said violation.
- (f) **Expense.** An account of the expenses incurred by the Village to abate said violation shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for abatement of said violation shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the Village Clerk shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.0907, Wis. Stats.