

CHAPTER 8

STREETS AND SIDEWALKS

- 8.01 Official Map
- 8.02 Street and Sidewalk Grades
- 8.03 Excavations
- 8.04 Sidewalk Construction and Repair
- 8.05 Curb and Gutter Construction
- 8.06 Obstructions and Encroachments
- 8.07 Snow and Ice Control
- 8.08 Coasting Prohibited
- 8.09 Trees
- 8.10 Penalty

8.01 OFFICIAL MAP

- (1) An official map of the City of Reedsburg is hereby established to conserve and promote the public health, safety, convenience and general welfare, a copy of which is on file in the City Clerk's office at the Reedsburg City Hall.
- (2) Said official map shall show the streets, highways, parkways, parks, and playgrounds heretofore laid out, adopted and established by law.
- (3) The City Clerk shall file with the Register of Deeds for Sauk County, Wisconsin, a certificate showing that the City has established an official map.
- (4) The placing of any street, highway, parkway, park or playground line or lines upon the official map shall not in and of itself constitute or be deemed to constitute the opening or establishing of any street, parkway, or playground, or the taking or acceptance of any land for such purpose.
- (5) For the purpose of preserving the integrity of such official map, no permit shall hereafter be issued for any building in the bed of any street, highway or parkway shown or laid out on such map and no permit for the erection of any building shall be issued unless a street, highway or parkway giving access to such proposed structure has been duly placed on such map, except as provided in Sec. 62.23(6), paragraphs (D) and (G), Wis. Stats. The proper official authorized to issue building permits may require each applicant to submit a plot plan certified by a registered survey and showing accurately the location of any proposed building with reference to any street, highway or parkway shown on the official map. The streets, highways or parkways shown on the official map may be shown as extending beyond the boundaries of the City a distance of 1 1/2 miles as provided by Sec. 236.06, Wis. Stats. Any person desiring to construct a building in the bed of a street, highway or parkway so shown as extended may apply to the building inspector for a building permit. Unless such application is made and the permit granted, or not denied within 30 days, such person shall not be entitled to compensation for damage to such building in the course of construction of the street, highway or parkway. If the land within such mapped street, highway or parkway is not yielding a fair return, the Board of Appeals may in a specific case, by the vote of a majority of its members, grant a permit for a building in such street, highway or parkway, which will, as little as practicable, increase the cost of opening such street, highway or parkway, or tend to cause a change of such official map; and such board may impose reasonable requirements as a condition of granting such permit, which requirements shall be designed to promote the health, convenience, safety or general welfare of the community. Such board shall refuse a permit where the applicant will not be substantially damaged by placing his building outside the mapped street, highway or parkway.
- (6) Subdivision Plat Recommendations. The Plan Commission shall require uniformity with the official map in recommending approval of any subdivision plat.

8.02 STREETS AND SIDEWALK GRADES

- (1) Establishment. The grade of all streets, alleys and sidewalks shall be established by the Common Council and recorded by the City Clerk in his/her office. No street, alley or sidewalk shall be worked until the grade thereof is established.
- (2) Alteration of Grades Prohibited. No person shall alter the grade of any street, alley, sidewalk or public ground in the City unless authorized to do so by the Board of Public Works.

8.03 EXCAVATIONS

- (1) No person or utility shall make or cause to be made any excavation in or under any street, alley or sidewalk nor shall any curb be cut in the City without first obtaining from the Board of Public Works a written permit for undertaking such excavation. Fees as provided in Chapter 32 shall be made for each opening, which shall be paid at the time of application.
- (2) The application for such excavation permit shall state the purpose for which the permit is desired and the location of the proposed excavation, which shall contain an agreement that the applicant will pay all damages to persons or property, public or private, caused by the applicant, his agents, employees, or servants in the doing or erection of the work for which the permission is granted, and that he will save the City free and clear of any damages or claims against it by reason of the application of the work for which the permit is granted. Any applicant may be required, as a condition to the granting of a permit, in the discretion of the street committee, to file a bond in such amount as the street committee shall determine to leave the street, sidewalk or alley in as good condition as the same was in when the work was commenced, to at all times keep the place where the excavation was made properly guarded by day and lighted by night, and to save the City harmless from any and all damages, cost and charges that may accrue from the applicant's use of such street, sidewalk or alley by reason of such excavation.
- (3) When excavations are made under this section, the excavations shall not be larger and shall not be left open longer than the necessities of the work demand. In refilling the excavations, such as soil, stone and screen shall be thoroughly and properly replaced, and the surface of the street, sidewalk or alley left in as good condition as the same was in before the excavation.

8.04 SIDEWALK CONSTRUCTION AND REPAIR

Sec. 66.0907, Wis. Stats., shall apply. *(Rev. 7-28-08)*

8.05 CURB AND GUTTER CONSTRUCTION *(Rev. 10-26-09)*

It is the policy of the City to have curb, gutter and sidewalks on all existing and future streets. To effectuate this policy, the following procedures will be followed:

- (1) An owner of unimproved land abutting on an existing opened street who improves said property by erecting buildings thereon shall install curb, gutter and sidewalk along the street abutting said land where curb, gutter or sidewalk do not exist. No building permit shall be issued until application for such curb, gutter and sidewalk grade has been made. The finished lawn or surface grade shall conform to the sidewalk grade.
- (2) No street shall be opened or improved unless curb and gutter are installed, at the expense of the abutting landowners, by the City, either directly or by contract, at the time the street is opened. No application for the opening and improving of a street shall be granted unless accompanied by an application for curb and gutter signed by all owners of land abutting on the street to be opened.
- (3) If the owner of any parcel of land fails to construct the curb, gutter and sidewalk, in a timely manner as required by the City, said construction may be performed by the City either directly or by contract and the cost may be charged to the property owner.
- (4) If the Common Council determines that curb, gutter and sidewalk shall be constructed on any street in the City, it may be constructed by the City, either directly or by contract, and the cost thereof shall be charged to the property owner.
- (5) All subdivisions created after January 1, 1990 shall be subject to the same curb and

8.05 Curb and Gutter Construction

gutter requirements as set forth above; however, sidewalks shall be installed in the subdivision upon the occurrence of any of the following events:

- (A) The passage of 24 months from the date that any property within the subdivision is sold or transferred by the developer.
 - (B) The sale or transfer of 75 percent of the lots within the subdivision, or
 - (C) The passage of five years from the date that the original subdivision plat is approved.
- (6) The costs of constructing curb and gutter may be specially assessed pursuant to city code and state law. The costs of constructing sidewalk may be assessed pursuant to code sec. 8.04 and Wis. Stat. § 66.0907.

8.06 OBSTRUCTION AND ENCROACHMENTS

- (1) 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 is the owner or occupant, except as provided in subsection (2) of this chapter.
- (2) Exceptions. The prohibition of subsection (1) shall not apply to the following:
 - (A) Signs or clocks attached to buildings which project no more than 6 feet from the face of such building and which do not extend below any point 10 feet above the sidewalk, street or alley.
 - (B) Awnings which do not extend below any point 7 feet above the sidewalk, street, or alley.
 - (C) Public utility encroachments duly authorized by state law or by the Common Council.
 - (D) Goods, wares, merchandise or fixtures being loaded or unloaded which do not extend more than 3 feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than 3 hours.
 - (E) Obstruction and encroachments are not to exceed 10 minutes except for dumpsters associated with construction/remodeling projects, so long as the dumpster has reflective tape or paint of at least 36 square inches in an area on each side of each corner of the dumpster. Dumpsters shall not be left on the street within 15 feet of an intersection or within 4 feet of a driveway. Dumpsters shall not be left on the street for more than 30 consecutive days. The vendor of the dumpster shall be identified on the dumpster. *(Rev. 1-14-08)*
 - (F) Tables and chairs for the consumption of food and non-alcoholic beverages may be situated within 15 feet of the property line but not more than 1/3 of the width of the sidewalk, whichever is less.
 - (G) Merchants within the Business Improvement District may display merchandise and provide tables, benches and chairs for customer seating and/or for the service of food and non-alcoholic beverages, as approved by the Business Improvement District Board, within 15 feet of the property line but no more than 1/3 of the width of the sidewalk, whichever is less. *(Rev.7-9-07)*

8.07 SNOW AND ICE CONTROL *(Rev. 01-26-09)*

- (1) The owner of any lot or parcel abutting on public sidewalk shall remove all snow, ice, dirt, rubbish, or refuse matter from the sidewalk. If ice has formed on the sidewalk and cannot be removed, then the owner shall be responsible for sprinkling the ice with a material that will prevent slipping. An owner's responsibility to remove, or cause to be removed, dirt, rubbish or refuse matter shall be a continuing responsibility. The owner of a lot or parcel used for

8.07 Snow and Ice Control

commercial purposes shall be responsible for clearing, or causing to be cleared, all snow and ice from the abutting sidewalk by 9:00 a.m. of the morning after the snow has ceased. All other owners of lots or parcels in the City of Reedsburg must clear, or cause to be cleared, the abutting sidewalks on or before 6:00 p.m. on the day set forth above. If the owner does not comply with this section, the street superintendent may cause the work to be done and the expense reported to the City Clerk who shall enter such expense on the tax roll as a special tax against the premises. The expenses so charged for the work performed will be \$1.00 per foot for a contractor to remove the snow from the sidewalk along with a \$100.00 administrative fee, in addition to any citations being issued to the property's owner. This ordinance shall not apply to sidewalks installed on the west side of Viking Drive (Highway H) between Huntington Park Drive and Eighth Street. *(Rev. 9-27-10)*

- (2) Depositing snow in streets is prohibited. No person shall push, shove or in any way deposit any snow or ice onto any public street, alley, sidewalk or public lands as dedicated for public use except for parcels in the downtown business district where the sidewalk exists from the edge of the building to City right-of-way curb line. In such instances, the owners, occupants and/or employees of owners of said parcels or lots in the downtown business district shall be permitted to deposit snow and ice from the sidewalks onto the public streets.

8.08 COASTING PROHIBITED

- (1) No coasting with wagons, sleds, skates, skateboards or other devices on sidewalks shall be permitted in the City.
- (2) Reserved for future use. *(Rev. 11-14-11)*

8.09 TREES AND SHRUBS

- (1) Statement of Policy and Applicability of Chapter
- (2) Definitions
- (3) Staff Forester
- (4) Interference with Staff Forester Prohibited
- (5) Abatement of Tree Disease Nuisances
- (6) Assessment of Costs of Abatement
- (7) Planting, Maintenance and Removal of Trees and Shrubs
- (8) Planting of Trees and Shrubs
- (9) Trimming
- (10) Trees and Shrubbery Obstructing View at Intersections or View of Traffic Signs
- (11) Removal of Trees and Stumps
- (12) Prohibited Acts
- (13) Appeal from Determinations and Orders
- (14) Adoption of State Statutes

(1) Statement of Policy and Applicability of Chapter.

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

8.9 Trees and Shrubs

(2) Definitions.

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

- (A) **Person.** Person, firm, association or corporation.
- (B) **Public Areas.** Includes all public parks, playgrounds, recreation areas, park ways, common open spaces, greenways, forests, conservancies and other lands owned or leased by the City under the authority of the Parks and Recreation Committee.
- (C) **Public Ways.** Shall include all public streets, roads, right-of-ways, boulevards, terraces, alleys, sidewalks, cemeteries, and other lands owned or leased by the City and under the authority of the Board of Public Works.
- (D) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.
- (E) **Public Nuisance.** Any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (F) **Boulevard or Terrace Areas.** The land between the normal location of the street edge or curbing and the street right-of-way. Where there is no curb and gutter, the edge of the road way (pavement or gravel) to the right-of-way line shall be deemed to be a boulevard for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace". Where there are no sidewalks, the area from the curbing or edge of street to the right-of-way line shall be deemed boulevard areas under this Chapter.
- (G) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- (H) **Shrubs.** Any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (I) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.
- (J) **Evergreen Tree.** 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.
- (K) **Staff Forester.** Person designated to carry out provisions of this Chapter.

(3) Staff Forester.

- (A) **Staff Forester.** The Parks and Recreation Director and the Director of Public Works are appointed the title of Staff Forester. The Staff Forester shall have the following general powers and duties:
 - (1) To direct, manage, supervise, and control the planting, removal, maintenance, protection of all trees and shrubs on all public areas; to supervise City personnel in the planting, removal, maintenance, and protection of said trees and shrubs.
 - (2) To guard all trees and shrubs within the City located on public areas so as to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the life, health or safety of persons or property.
 - (3) Such other powers and duties as are provided by the laws of Wisconsin, particularly Section 27.08 and 27.09, Wis. Stats., by ordinance of the City and by the Parks and Recreation Committee.
- (B) **Parks and Recreation Committee Appointment.** The Parks and Recreation Committee may also designate a municipal employee or citizen to perform the duties of Staff Forester under Chapter 27, Wis. Stats., and may authorize such Forester to perform the duties and exercise the powers imposed by this Chapter.
- (C) **Right-of-Entry.** The City Forester or other authorized City representatives may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Sec. 66.0114, Wis. Stats.

(4) Interference with the Staff Forester Prohibited.

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

(5) Abatement of Tree Disease Nuisances.

- (A) **Dutch Elm, Emerald Ash Borer and Other Tree Diseases a Public Nuisance.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is

8.9 Trees and Shrubs

threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.), the Common Council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases.

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

- (1) "Public Nuisance" means:
 - a. Dutch Elm disease; Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
 - b. Oak Wilt (*ceratocystis fagacearum*).
 - c. Asian Longhorned beetle (*Anoplophora glabripennis*)
 - d. Emerald Ash Borer (*Agrilus planipennis*)
 - e. Any other deleterious or fatal tree disease.
 - f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot line.
 - g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
- (2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
- (3) "Person" means person, firm or corporation.

(C) **Inspection.**

- (1) The Staff Forester shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance exists thereon. He shall also inspect or cause the inspection of any tree reported or suspected to be infested with disease or beetles.
- (2) Whenever necessary to determine the existence of disease or beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.

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

- (1) The Parks and Recreation Committee, upon the recommendation of the Staff Forester, shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by spraying, removal, burning or by other means which it determines to be necessary to prevent as fully as possible the spread of disease, fungus, other deleterious insect pests or vectors known to carry such diseases.
- (2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he shall ask the Parks and Recreation Committee to abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of disease, other deleterious insect pests or vectors known to carry such disease fungus.
- (3) When the Parks and Recreation Committee shall determine with reasonable certainty that a public nuisance exists upon private premises, it shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing before the Parks and Recreation Committee, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the Parks and Recreation Committee shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.
- (4) If, after hearing held pursuant to Subsection (3), it shall be determined by the Parks and Recreation Committee that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the Parks and Recreation Committee 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 Parks and Recreation Committee may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(E) **Spraying.**

- (1) Whenever the Forester shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, he may request the Parks and Recreation Committee to authorize the spraying of all trees within a one thousand (1,000) foot radius thereto with an effective disease destroying concentrate or other insecticide.

8.9 Trees and Shrubs

- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Staff Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the Staff Forester shall also notify the Chief of Police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each block of any affected street at least twenty-four (24) hours in advance of spraying operations.
- (3) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection (b) of this Section, the City shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Staff Forester shall notify the owner of such property and proceed in accordance with the requirements of

Subsection

(6) Assessment of Costs of Abatement.

- (A) The entire cost of abating any public nuisance or spraying trees as defined herein 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 Section 66.60(16) or Section 27.09, Wis. Stats. The cost of abating any such nuisance or part thereof which is located in or upon any park shall be borne by the City.
- (B) The cost of abating a public nuisance or spraying elm trees, elm wood or trees infected with other tree diseases located on private premises when done at the direction and under the supervision of the Parks and Recreation Committee and Staff Forester shall be assessed to the property on which such nuisance, tree or wood is located as follows:
 - (1) The Parks and Recreation Committee shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the Common Council on or before October 15 of each year.
 - (2) Upon receiving the Parks and Recreation Committees' report, the Council shall hold a public hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.
 - (3) After such hearing, the Common Council shall affirm, modify and affirm or disapprove such assessments by resolution and
 - (4) The City Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.
 - (5) The City hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof.

(7) Planting, Maintenance and Removal of Trees and Shrubs.

- (A) **Permit Required.** No person, except upon order of the Staff Forester or Public Works Director, shall plant or remove, or perform major alterations as determined by the Forester or Public Works Director 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 permission for such work from the Staff Forester or Public Works Director as herein provided. The applicant shall comply with the planting standards of Section 8.09(8).
- (B) **Permit Exemptions.** No permit shall be required to cultivate, fertilize or water trees or shrubs or for work by City personnel on park properties. No permit is necessary to plant trees inside the property line.
- (C) **Permit Issuance.** If the Staff Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this Chapter, taking into account the safety, health and welfare of the public, location of utilities, public sidewalk, driveways and street lights, general character of

8.9 Trees and Shrubs

the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological need of the genus, species and variety of tree or shrub, he shall issue a permit to the applicant.

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

(8) Planting of Trees and Shrubs.

- (A) **Purpose.** The Common Council hereby states its determination that the planting, care and protection of the trees within the City is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.
- (B) **Tree Planting Program.** The Staff Forester shall recommend to the Common Council a program for tree planting, care and protection for public parks. The Common Council shall also encourage the planting, care and protection of trees and shrubs on private premises within the City. Planting of trees in the terrace areas shall be according to the City approved tree planting list.
- (C) **Planting.**
- (1) The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards and the manner of planting shall be submitted to the Staff Forester for approval before commencement of such work. The permit application process is required in Section 8.09(7).
 - (2) There shall be a minimum distance of sixteen (16) feet and a recommended distance of twenty-five (25) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Terrace trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than three (3) feet wide, planting will not be permitted. Terrace area trees shall be a minimum of twenty-five (25) feet from an intersection.
 - (3) Evergreen trees shall not be planted in a terrace area.
 - (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.
 - (5) Tree grates shall be provided for terrace trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.
 - (6) Per City policy, trees or shrubs shall not be planted closer than three (3) feet to any sidewalk or curb.
 - (7) All new required shade trees must be a minimum of one and three-quarter inch (1-3/4") diameter caliper at the time of planting. All new required evergreen trees must be a minimum of six feet (6) high when planted, except for low creeping shrubs.
 - (8) Recommended Tree Species can be found in the Public Tree Inventory Report and Management Plan, Appendix C – dated September 2014.
- (D) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the Forester may be removed. The Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (E) **Frames.** Any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame for protection, but all such work shall be performed under the supervision and direction of the Staff Forester.
- (F) **Planting Instructions.** Appropriate planting instructions can be found in the Public Tree Inventory Report and Management Plan, Appendix J – dated September 2014.

8.9 Trees and Shrubs

(9) Trimming.

- (A) 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 Staff Forester may waive the provisions of this Section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
- (B) The necessity of the pruning may be determined by the Staff Forester.
- (C) Clearance from sidewalk to lower branches shall not be less than seven (7) feet. All trees standing upon private property in the City, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than seven (7) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (D) Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require a permit from the Staff Forester.

(10) Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.

- (A) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (B) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (C) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the Board of Public Works, upon the recommendation of the Staff 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 Board of Public Works and/or Common Council shall order City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.
- (D) Any person who is an owner or occupant or firm or corporation failing to obey the written notice as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Sec. 25.04 of this Code of Ordinances.

(11) Removal of Trees and Stumps.

- (A) **Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the Staff Forester shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the City, or to be injurious to 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 Staff Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the Staff Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the Staff Forester shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the City Clerk, who shall thereupon enter such cost as a special charge against the property.
- (B) **Removal Standards.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable.

8.9 Trees and Shrubs

- (C) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the Staff Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the Staff Forester, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

(12) Prohibited Acts.

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

(13) Appeal from Determinations or Orders.

Any person who receives a determination or order under this Chapter from the Staff Forester or Parks and Recreation Committee and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Chapter 68, Wis. Stats., to the Common Council within seven (7) days of receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Common Council shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Council shall file its written decision with the City Clerk.

(14) Adoption of State Statutes.

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

State Law Reference: Sections 27.09 and 86.03, Wis. Stats

8.10 PENALTY

Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Sec. 25.04 of this municipal code.