

TITLE 6

Public Works

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Title 6 ► Chapter 1

Grades; Use of Right-of-Ways

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Sec. 6-1-1 Establishment of Grades; Use of Right-of-Ways.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by resolution by the Village Board, upon the recommendation of the Public Works Department, and the same recorded by the Village Clerk-Treasurer in his/her office. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by ordinance, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.
- (b) **Sidewalk Grades.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, but the construction shall be done by the owners of the abutting lots or parcels of land or at their expense as hereinafter provided. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Village Board, or its designee, shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.
- (c) **Grades and Elevations.** All grades and elevations hereinafter fixed and established and all grades and elevations that shall or may be hereafter established in the Village of Elk Mound are and shall be described in feet and in decimals of a foot above a certain assumed base.

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

Sec. 6-1-2 Alteration of Grade Prohibited.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the Village of Elk Mound by any means whatsoever unless authorized or instructed to do so by the Village Board or the Public Works Department. All such alterations of grade shall be recorded in the office of the Village Clerk-Treasurer.

Sec. 6-1-3 Regulation of Underground Utilities.

- (a) **Elevation.** The grade or elevation of all underground construction in public terraces or other public property shall be a minimum of three (3) feet below the established grade of the street, alley, park, public property or easement. The three (3) feet shall be measured between the top of the established grade and the top of the underground construction.
- (b) **Approval of Location.** The location of any and all such underground construction must have the approval of the Public Works Department.
- (c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Public Works Department before construction can begin.
- (d) **Inspection.** On request of the Public Works Department, the utility company must provide opportunity for Village officials to check any construction before it may be covered.
- (e) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction at the election of the Public Works Department, and in accordance with its directions and specifications.
- (f) **Establishment of Grade.** At the request of the utility company, the Public Works Department shall, at the Village's expense, give the utility company an established grade on any streets, alleys, public parks or easements where it proposes to install underground utilities.
- (g) **Emergency.** In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the Public Works Department as soon thereafter as is reasonably possible.
- (h) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the Village of Elk Mound may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with Sections 6-2-3 and 6-2-4.
- (i) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travelway, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, or improving of streets,

or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

Sec. 6-1-4 Authorization Required for Alteration of Grade.

Except as provided in this Section, no land shall be filled, cut or graded within the Village of Elk Mound nor shall the existing drainage or topographical characteristics of land within the Village be changed without the owner of such land first obtaining authorization from the Public Works Department allowing such filling, cutting or change in drainage or topographic characteristics, as follows:

- (a) **No Authorization Required for Certain Activities.** No authorization shall be required if the filling, cutting, grading or other change in the topographic characteristics of the property involves the placement, removal or movement of not more than twenty (20) total cubic yards of material and will not result in any alteration of the existing drainage of the property.
- (b) **Authorization From Public Works Department Required For Certain Activities.** Authorization from the Public Works Department shall be required if the filling, cutting, grading or other change in the topographic characteristics of the property involves the placement, removal or movement of more than twenty (20) cubic yards, but not more than one hundred (100) cubic yards, of material and will not result in any alteration to the existing drainage of the property. Application requirements are as follows:
 - (1) **Request.** The authorization request shall be to the Public Works Department. The Public Works Department may require the following:
 - a. A site plan showing the existing and proposed improvements on the property and the areas that will be affected in sufficient detail to allow the Public Works Department to properly evaluate the request.
 - b. A non-refundable fee as prescribed in Section 1-3-1 for administrative expenses.
 - (2) **Request Denials.** The Public Works Department may deny the authorization request if it determines that:
 - a. The proposed activity [including any prior activity of a similar nature within five (5) years of the date of the application] involves the placement, removal or movement of more than twenty (20) total cubic yards of material;
 - b. The proposed activity will alter the existing drainage of the property;
 - c. The proposed activity will have a material adverse effect on the property, any adjoining property, or the residents of the Village of Elk Mound; or
 - d. The proposed activity violates any other standard established by this Section or any other regulation, ordinance or statute.
 - (3) **Notification.** The Public Works Department shall give authorization or notify the property owner of denial within five (5) business days from the receipt of the authorization request.
 - (4) **Appeal of Denials.** A property owner whose application is denied shall have the right to appeal the denial to the Village Board by filing a written notice of appeal with the Village Clerk-Treasurer within fifteen (15) days from the date of the denial.

- (c) **Permit From Village Board Required For Certain Activities.** A permit from the Village Board shall be required if the filling, cutting, grading or other change in the topographic characteristics of the property involves the placement, removal or movement of more than one hundred (100) total cubic yards of material and will not result in any alteration to the existing drainage of the property. Application requirements are as follows:
- (1) **Application.** The application for such permit shall be made to the Village Clerk-Treasurer and shall include a site plan showing all existing and proposed improvements on the property and a topographic map showing the topography of the land both before and after the implementation of the proposed change in the topography of the land with sufficient detail to allow Village of Elk Mound officials to properly evaluate the application.
 - (2) **Fee.** A non-refundable fee as prescribed in Section 1-3-1 must accompany the application.
 - (3) **Application Denials.** The Village Board shall deny the application if the Village Board determines that:
 - a. The proposed activity [including any prior activity of a similar nature within five (5) years of the date of the application] involves the placement, removal or movement of more than one hundred (100) total cubic yards of material;
 - b. The proposed activity will have a material adverse effect on the property, any adjoining property or the residents of the Village of Elk Mound; or
 - c. The proposed activity violates any other standard established by this Section or any other regulation, ordinance or statute.
 - (4) **Notification.** The Village Board shall issue the permit or notify the property owner of its denial within thirty (30) days from the receipt of the properly completed application, site plan and topographic map.
 - (5) **Appeal of Denials.** A property owner whose application is denied shall have the right to appeal the denial to Circuit Court after first filing a written notice of appeal with the Village within fifteen (15) days from the date of denial.
- (d) **Other Requirements And Standards.** The filling or cutting of any property grading or other change in the drainage or topographic characteristics of any property shall also be subject to the following requirements and restrictions:
- (1) **Impact on Other Properties.** No change shall be made in the existing topography of any property that would alter the existing drainage or topography in a way so as to have a material adverse effect on any other property, except with the written consent of the owner(s) of each affected property.
 - (2) **Alteration of Existing Drainage.** No change shall be made in the existing topography that would alter the existing drainage characteristics of the property in a manner that would divert additional drainage waters onto any highway, sidewalk or public lands without the approval of the Village Board.
 - (3) **Angle of Slopes.** Any slope resulting from the filling, cutting or change in topography of any parcel shall not exceed the normal angle of slippage of the material involved, and shall not exceed a slope of a ratio greater than four (4) horizontal to one (1) vertical within twenty (20) feet of any boundary line of a parcel.

- (4) **Deposit of Fill in Conservancy Areas.** Fill shall not be deposited in any land within any conservancy zoning district without prior site plan approval of the Village Board.
 - (5) **Deposit of Fill in Wetland Areas.** Fill shall not be deposited in any land designated as a wetland by the Wisconsin Department of Natural Resources (WisDNR), except in full compliance with all applicable regulations, ordinances and statutes.
 - (6) **Deposit of Fill in Floodplains.** Fill shall not be deposited in any land designated as a floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources (WisDNR) or the Village of Elk Mound, except in full compliance with all applicable regulations, ordinances and statutes.
- (e) **Construction Activities Exempted.** This Section shall not apply to on-site activities such as excavations, filling, cutting, grading, stockpiling and other similar activities undertaken in connection with the construction or alteration of structures for which a building permit has been obtained; provided that such activities are conducted in compliance with the requirements of the building permit and all other permits, requirements, regulations, ordinances and statutes.
- (f) **Erosion Control Requirements.** Any person engaged in filling, cutting, grading or any other activity requiring a permit under this Section shall utilize such silt fencing, erosion barriers, vegetative cover or other measures as shall be reasonably necessary to minimize and erosion resulting from the activity.
- (g) **Liability To Others.** The issuance of a permit under this Section shall not relieve the person conducting the activity from any liability arising out of the activity or subject the Village of Elk Mound to any liability for such activity.

Sec. 6-1-5 Village Right-of-Way Use By Utilities.

- (a) **Statement of Purpose.**
- (1) **Utilities Accommodation Generally.** The Village of Elk Mound constructs, maintains, and operates a Village street and highway system, providing critical infrastructure to citizens and businesses alike. Utility companies provide service to neighborhoods and businesses as well as to individual users. Both the Village of Elk Mound and utility companies typically provide facilities which consider future as well as present infrastructure needs. Cooperation between these entities is essential if the public is to be served in a cost-efficient manner consistent with the respective public service needs, obligations, and interests.
 - (2) **Purpose of the Village Street System.** The primary purpose of the Village of Elk Mound street system is to provide a safe and convenient means for the vehicular transportation of people and goods. Any permitted use and occupancy of Village street, highway and road right-of-way for non-transportation purposes is subordinate to the primary interests of the traveling public.

- (3) **Purpose of Utility Accommodation Standards.** The purpose of this Section is to describe the standards that shall be satisfied by any utility whose facility currently occupies, or will occupy in the future, any street, highway or road right-of-way or bridge over which the Village of Elk Mound has jurisdiction and maintains.
- (b) **Utility Accommodation.**
- (1) **Permitted Accommodation.** The Village of Elk Mound will generally permit utility facilities on and within right-of-ways of Village streets, highways, roads, and bridges when:
 - a. Such use and occupancy does not adversely affect the primary functions of the Village streets, highways, roads, and/or bridges or materially impair their safety, operational, and/or visual qualities;
 - b. There would be no conflict with the provisions of federal, state, or local laws, ordinances, or regulations or the accommodation provisions stated herein; and
 - c. The occupancies would not increase the difficulty or future cost of street, highway, road, or bridge construction or maintenance.
 - (2) **Additional Provisions.** Nothing in this Section shall be construed as limiting the rights of the Village of Elk Mound to impose additional restrictions or requirements and/or deviations from those prescribed in this Section in any permit where the Village Board or its designee deems it advisable to do so.
 - (3) **Alteration Requests.**
 - a. If the utility encounters a hardship during installation that prevents installation in accordance with the Village-issued permit, the utility can:
 1. Make a request for an alteration in writing to the Village Board, which shall consider such request within ten (10) business days; or
 2. The utility may make changes to the permitted installation, at the risk of having to relocate the installation at its own cost if there is not subsequent agreement with the Village.
 - b. In all cases, the utility shall explain in writing the changes made or proposed to be made. Such notification shall identify the hardship and include maps indicating the permitted locations of the installations and the actual as-built locations of the installations.
 - c. The Village Board has the final determination authority as to the validity of the hardship. If the Village Board determines that the changes were made primarily due to the contractor's preference, and not due to a hardship, the Village shall direct that the utility take appropriate corrective action within ten (10) days of written notice from the Village. For clarification purposes, but not limited to, examples of hardships are: solid rock, uncrossable swamps or wetlands, cemeteries, or similar features or circumstances that make construction physically or economically unfeasible. Financial hardship alone might not constitute a hardship.

- (c) **Alterations to Permitted Facilities.** The utility shall properly alter the permitted facilities as necessary to facilitate alteration, improvement, safety control, or maintenance of the street, highway, road, bridge, or right-of-way as may be ordered by the Village Board. All costs for constructing, maintaining, altering, and relocating the permitted facilities shall be the sole responsibility of the utility, unless a specific Village-executed utility parcel or agreement otherwise provides.
- (d) **Permit Required.**
- (1) **When Permit Required.** A utility shall obtain a permit from the Village of Elk Mound before any use or occupancy of a Village street, highway, road, or bridge right-of-way is allowed or authorized.
 - (2) **Permit Authorization To Use and/or Occupy Village Right-of-Way:**
 - a. By issuance of a permit, the Village officially determines that, subject to all applicable provisions and conditions of this Section, the permit, and the Village of Elk Mound Code of Ordinances, a specified utility use and/or occupancy of Village right-of-way is not adverse to the public interest at the time of permit approval.
 - b. In issuing a permit, the Village of Elk Mound does not warrant that public title to the right-of-way is free and clear, does not certify that the Village has sole ownership, and does not indicate any intention to defend the utility in its peaceful use and occupancy of said lands. The permit does not transfer or convey any land nor grant, give, or convey any land right, right in land, or easement.
 - c. Written permit authorization from the Village of Elk Mound does not relieve the utility from compliance with all applicable federal and state laws and codes, and local ordinances and regulations, which affect the design, construction, materials, and/or performance of the work. The Village's authorization shall not be construed as superseding any other governmental agency's more restrictive requirements.
 - d. Each Village-issued permit shall require that proper indemnification language protecting the Village be a part of the approval document.
 - e. The utility shall retain a copy of the permit in its files, at a minimum, during the entire time the facility is located on, over, or under Village right-of-ways.
- (e) **Required Permit Application Information.**
- (1) **General Requirements.** A utility's request to use and occupy the right-of-way cannot be considered until adequate required information is provided to the Village by the applicant; an application request shall not proceed to review until such that time sufficient application information is filed with the Village Clerk-Treasurer, as determined by the Village. The amount of application detail will vary with the complexity of the installation and right-of-way involved, but must include the appropriate permit form, drawings and sketches, and installation information so that the effect on the street, highway, road or bridge operation, traffic safety, and visual qualities can be evaluated.

- (2) **Permit Application Form.**
 - a. Utilities shall file a permit application form with the Village Clerk-Treasurer. Alteration of a Village permit application form, if provided, by the applicant is prohibited and shall be cause for application rejection or permit revocation. Additional information can be provided as an attachment.
 - b. One (1) original of the permit application, with attachments, shall be submitted per application to the Village Clerk-Treasurer via regular mail, courier service, or delivered in person.
 - c. As applicable, the applicant shall provide on the application: name and business address; telephone, cellphone and fax numbers; email address; and a specific contact person.
- (3) **Permit Application Illustrations.** Each permit application shall provide adequate drawings, illustrations or sketches sufficient to show the existing and/or proposed location of all utility facilities within the Village right-of-way with respect to the existing street, highway, road, and/or bridge, and any planned improvements to such infrastructure. The details provided shall include dimensions from the proposed utility installation to the commonly accepted right-of-way line and to the edge of the traveled way. For highway/road crossings, a cross-section detail showing the depth of bury or overhead clearance is required along with the location of any bore pits, if needed. The distance reference from the crossing to the nearest public roadway intersection is also required. Approximate distances from the proposed installation/facility to side road intersections, county lines, etc., shall be submitted to the Village with all permit application illustrations.
- (4) **Installation Information.** The utility shall provide the following installation information to the Village:
 - a. This information shall include, but is not limited to, a general description of the location, size, type, nature, and extent of the utility facilities proposed to be installed or to be adjusted, and the impact of the proposed facilities on the utility's existing facilities that remain in place within the right-of-way.
 - b. The utility shall provide a description of proposed construction procedures, special traffic control and protection measures, proposed access points, coordination of activities with the highway contractor (when applicable), and vegetation proposed to be removed.
 - c. When an attachment to a road structure, such as a bridge, is proposed, additional information is required. This information shall include, but not be limited to, bridge number, weight of lines, hanger spacing, hanger details, and expansion/contraction details.
- (5) **Fees.** Under this Section, the following fees shall be paid to the Village at the time of permit application:
 - a. Permit Application & Review Fee: Per Section 1-3-1.

- b. Open Cuts Across Gravel Roadways: Per Section 1-3-1.
 - c. Open Cuts Across Paved Roadways: Per Section 1-3-1.
- (f) **Location Requirements.**
- (1) **General Location Requirements.** Utility facilities shall be located in such a manner to minimize the need for later adjustment to:
 - a. Accommodate proposed street, highway, road, and/or bridge improvements.
 - b. Permit servicing or expanding such lines without obstruction or interference to the free flow of traffic.
 - c. Provide adequate vertical and horizontal clearance between an underground utility facility and a structure or other highway facility to allow maintenance of all facilities.
 - d. Be outside of the forty-five degree (45°) cone of support for the footings of all highway structures.
 - (2) **Crossing Location.** Utility facilities and installations shall satisfy the following:
 - a. Utility facilities shall cross the highway or road on a line as nearly perpendicular to the highway/road alignment as possible.
 - b. Conditions which are generally unsuitable or undesirable for underground crossings should be avoided. Crossing locations to be avoided include:
 - 1. Deep cuts.
 - 2. Near footings of bridges and retaining walls.
 - 3. Across highway/road intersections at grade or ramp terminals.
 - 4. At cross drains where the flow of water may be obstructed.
 - 5. Within basins of an underpass drained by a pump.
 - 6. In wet or rocky terrain where it will be difficult to attain minimum burial depth.
 - (3) **Underground Longitudinal Location.**
 - a. The longitudinal location of underground utility facilities within the right-of-way shall provide as much clearance from the traveled way as conditions will allow. Such lines shall be on uniform alignment and be located at or as near as practical to the right-of-way line.
 - b. To maintain a reasonable uniform utility alignment, location variances may be allowed when irregular-shaped portions of the right-of-way extend beyond the normal right-of-way limits. No utility lines are allowed in the ditch bottom or on the slope from the road shoulder.
 - (4) **Above-Ground Longitudinal Location.**
 - a. The longitudinal location of above-ground utility facilities shall be outside of the clear zone. Such lines shall be on a uniform alignment and be located at or as near as practical to the right-of-way line. Exceptions may be granted when no other location is feasible or when the clear zone extends to the right-of-way line.
 - b. If any above-ground utility facility is within the clear zone or is determined to be in a location that has a higher than average accident potential, the Village may require:

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1. The utility facility to be constructed of approved yielding or breakaway material; or
 2. The utility facility to be protected by a Village-approved barrier such as beam guard, crash cushion, etc. To maintain a reasonably uniform utility alignment, location variances may be allowed when irregular-shaped portions of the right-of-way extend beyond the normal right-of-way limits.
- (5) **Existing Utilities.** When a utility facility exists within the right-of-way of an existing or proposed street/road, it may remain provided it does not adversely affect street/road safety based on sound engineering judgment and economic considerations. The existing utility facility shall be relocated if:
- a. It conflicts with any construction or maintenance activities; or
 - b. It is located longitudinally under the pavement or shoulder for a reconditioning or reconstructed project; or
 - c. Is found to not be within accepted standards for depth of bury, or overhead clearance or in locations not acceptable to the Village of Elk Mound.
 - d. Exceptions may be granted by the Village for Subsections (e)(5)a-b above based on sound engineering judgment and economic considerations.
- (g) **Construction Standards Requirements.**
- (1) **Minimum Clearance Standards.** All installations shall meet or exceed the minimum clearance requirements of the *Wisconsin Highway Maintenance Manual* Chapter 09 "Right-of-Way Use and Permits", Section 15 Utility Accommodation, Subject 25 Location Requirements.
 - (2) **Traffic Control.** All installation projects shall provide traffic control according to the *Facilities Development Manual*, Wisconsin Department of Transportation, Chapter 11 Design, Section 50 Traffic Control.
 - (3) **Village-Specific Standards.** In addition to the above standards, utility installations in Village right-of-ways shall comply with the pertinent provisions of the Village of Elk Mound Code of Ordinances pertaining to excavations and site restoration.

Title 6 ► Chapter 2

Streets and Sidewalks

- 6-2-1** Removal of Rubbish and Dirt from Sidewalks
- 6-2-2** Construction and Repair of Sidewalks
- 6-2-3** Curb and Gutter Construction
- 6-2-4** Excavations of Streets, Alleys, Public Ways and Grounds
- 6-2-5** Regulations Governing Excavations and Openings
- 6-2-6** Obstructions and Encroachments
- 6-2-7** Street Privilege Permit
- 6-2-8** Snow and Ice Removal
- 6-2-9** Terrace Areas
- 6-2-10** Vaults
- 6-2-11** Requests for Improvements
- 6-2-12** Unlawful Dumping on Streets
- 6-2-13** Street Numbers
- 6-2-14** Obstruction of Public Ditches
- 6-2-15** Use and/or Lease of Village Equipment and Services
- 6-2-16** Village Public Construction Projects; No-Bid Construction
- 6-2-17** Dirt and Debris on Streets
- 6-2-18** Damage to Streets and Public Property
- 6-2-19** Adoption of State Statutes Concerning Roads
- 6-2-20** Grass Clippings
- 6-2-21** Mailbox Placement Standards

Sec. 6-2-1 Removal of Rubbish and Dirt from Sidewalks.

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

Sec. 6-2-2 Construction and Repair of Sidewalks.

(a) **Construction and Repair Procedures.**

- (1) **Construction and Repair Regulated.** No person, whether owner, builder or contractor, shall build any new sidewalk or repair or renew, or cause to be built, repaired or renewed any existing sidewalk contrary to the provisions of this Chapter, except where such a change in the specifications hereinafter set forth shall be deemed in the best interests of the Village of Elk Mound.
- (2) **Village Board May Order; Standards.** The Village Board may determine that sidewalks be constructed and establish the width, determine the material and prescribe the method of construction of standard sidewalks pursuant to this Section. The Village Board shall bid and award contracts for all sidewalk construction and reconstruction projects.

(b) **Sidewalks Required.**

- (1) The following conditions may require the installation of sidewalks, per a determination by the Village Board.
 - a. On state and county highways improved with curb and gutter.
 - b. On arterial and collector streets improved with curb and gutter.
 - c. Around any residential block in which sidewalk exists along fifty percent (50%) or more of the total length around said block.
 - d. Whenever the Village Board deems sidewalks to be necessary for safety purposes.
 - e. When required under Title 14 with a new subdivision and land division.
- (2) Areas of the community that meet the criteria to require sidewalks, but which presently do not have sidewalks, may be required per resolution of the Village Board, to have sidewalks installed in the future.

(c) **Cost.**

- (1) **Sidewalks in New Subdivisions.** Sidewalks required in new subdivisions and developments shall be paid for by the developer or land divider, at his/her cost, pursuant to Title 14 of this Code of Ordinances.
- (2) **Sidewalk Repair and Reconstruction.** The Village shall reconstruct and repair existing sidewalks along or upon any street, alley, or highway in the Village of Elk Mound as determined by the Village Board and pay the cost thereof.
- (3) **Village to Act as Own Contractor.** Because it is in the public interest to expedite construction as required, the Village of Elk Mound shall act, where feasible, as its own contractor on any sidewalk project or shall select a private contractor to perform such work.

- (d) **Village Contract or Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village of Elk Mound unless he/she is under contract with the Village to do such work or has obtained a permit therefore from the Village Clerk-

Treasurer or Public Works Department at least two (2) days before work is proposed to be undertaken. A fee as prescribed in Section 1-3-1 shall be charged for such permit.

(e) **Standard Specifications for Sidewalk.**

- (1) **General.** Concrete sidewalk construction shall meet the specifications and provisions set forth in this Section and shall be constructed in locations and to line and grade as established by the Village of Elk Mound. All sidewalks constructed in the Village shall conform to the line and grade established by the ordinances or resolutions of the Village of Elk Mound. Where no grade has been established as ascertained by the records, the Village Engineer shall prepare and report a grade for the approval of the Village Board; and, when the same has been established, the Village Engineer or Public Works Department shall stake out the sidewalk as ordered by the Village Board. No sidewalk shall be laid under the provisions of this Section until a grade therefor has been established by the Village of Elk Mound.
- (2) **Subgrade.** All earth, dirt and material shall be removed to a depth, not less than eight (8) inches, ten (10) inches across private driveways, below the grade line; and the space shall be filled with crushed stone, sand or gravel. The base shall be left four (4) inches thick after being tamped, with the stone or gravel to be not larger than one and one-half (1-1/2) inches in diameter and to be free from dirt, dust and foreign matter. Soft, porous and unsuitable subgrade material shall be removed and replaced with sand, gravel, or other satisfactory material, and the subgrade shall be thoroughly and uniformly compacted and moistened immediately before the concrete is placed. On embankments, the subgrade shall extend at least one (1) foot beyond each edge of the sidewalk.
- (3) **Surplus Excavation and Fill Between Sidewalk and Curb.** All surplus earth and other material excavated from the line of work, which may not be required for filling, shall be hauled. Where the sidewalk does not abut the curb, gutter, pavement or other structures and when the concrete has been cured and forms removed, the space along the sides shall be backfilled with a satisfactory soil thoroughly compacted. Backfill shall be approved by the Public Works Department.
- (4) **Concrete.** The minimum quantity of cement per cubic yard shall be six (6) sacks of ninety-four (94) pounds each. Concrete shall be mixed for at least one (1) minute. Gravel shall be of good quality and washed. Concrete shall test three thousand (3,000) pounds compression in twenty-eight (28) days. Bituminous sidewalks are prohibited except on special use walking trails.
- (5) **Forming.** Concrete shall be placed in straight forms of wood or metal of sufficient strength to resist springing, tipping or other displacement during the process of depositing and consolidating the concrete. Concrete shall be placed in the forms on a moist subgrade, deposited just above the finished grade and consolidated and spaded sufficiently to bring the mortar to the surface and to prevent honeycombing. It shall then be struck off level with the top of the forms and finished with wooden flats. Forms shall be securely fastened, staked, braced and held firmly to required line and shall be sufficiently tight to prevent leakage of mortar, and all forms shall remain in place for twenty-four (24) hours after pour.

- (6) **Jointing, Floating and Finishing.** Soon after screening and while the concrete is still pliable, the surface shall be floated with wood, cork or metal floats or by a finishing machine. At all places where the sidewalk intersects another sidewalk or curb-line, a one-half (1/2) inch expansion joint shall be placed. Transverse expansion joints of one-half (1/2) inch thick and four (4) inches wide and five (5) feet long or premolded material shall be located every thirty (30) feet. Sidewalks must be marked off to make blocks five (5) foot square and be at right angles to the parallel lines. Any new sidewalk adjoining an old sidewalk or a sidewalk which abuts curb and gutter shall have one-half (1/2) by four (4) inch expansion joints of premolded material.
- (7) **Slope.**
- All forms must be approved by the Public Works Department or other inspector designated by the Village Clerk-Treasurer before concrete is poured. To provide adequate drainage, the sidewalk shall slope toward the curb at a minimum rate of one-half (1/2) inch per foot of width of sidewalk. All joints and edges shall be finished with a one-fourth (1/4) inch radius edging tool.
 - In cases where the grade exceeds fifteen percent (15%), steps or special construction shall be required to fit the existing conditions. Such details shall be prepared by the Village Engineer and approved by the Village Board before construction of the walk is started.
 - Sidewalks shall be constructed within the limits of the street right-of-way (terrace), and unless otherwise specifically indicated, there shall be a one (1) foot strip of street property left between the property line and the edge of the sidewalk.
- (8) **Width and Thickness.**
- Residential walks shall be a minimum of five (5) feet in width and not less than four (4) inches thick, or shall match existing sidewalk width in that block. However, in driveway approaches, the minimum sidewalk thickness shall be six (6) inches. Such sidewalks shall have a grade one (1) inch higher than the adjacent curb on the curb side of the sidewalk. All such sidewalks shall be constructed eight (8) inches from the adjacent lot line.
 - In the case of a laydown type curb, the pitch shall be one-half (1/2) inch per foot from the curb in the parkway to the sidewalk with a three (3) inch minimum.
 - Sidewalks in front of commercial or industrial establishments shall have a width as determined by the Village Board and be five (5) inches thick, except within driveway approaches where the minimum thickness shall be seven (7) inches.
 - One-half (1/2) inch reinforcement rod shall be used when replacing or repairing sidewalks over alley entrances.
- (9) **Finishing.** The concrete shall be struck off true to grade, finished smooth and given a broom finish in transverse direction. Edges and joints shall be given a finish with a one-quarter (1/4) inch radius edging tool. Dry cement shall not be spread on a wet

surface to take up excess water. Finishing operations shall be delayed until water has disappeared. No tool marks shall be left on exposed surfaces. In case of rain, the walk shall be covered to protect the surface from being damaged. Sidewalks shall be kept free from all traffic at normal temperatures for forty-eight (48) hours and in cold weather [below fifty (50) degrees F.] for ninety-six (96) hours.

- (10) **Curing and Drying.** As soon as any of the concrete work herein before mentioned has been finished and hardened sufficiently to prevent excessive marring of the surface, it shall be cured and protected against rapid drying. Failure to comply with this requirement shall be deemed sufficient cause for suspension of the work. Curing shall be accomplished by the "Impervious Coating," "Wet Fabric" or "Paper" methods. For impervious coating or membrane curing, only those materials meeting requirements of ASTM Spec. C156-44T, "Method of Test for Efficiency of Materials for Curing Concrete" shall be used. Said specifications are hereby adopted by reference as if fully set forth herein. Concrete shall be kept moist by sprinkling, covering or a combination of both for a period of five (5) days.
 - (11) **Cold Weather Requirements.** When the temperature is less than forty degrees Fahrenheit (40°F), all concrete placed in the forms shall have a temperature between fifty degrees Fahrenheit (50°F) and seventy degrees Fahrenheit (70°F) and shall meet the requirements as per Wisconsin Department of Transportation (WisDOT) specifications for cold weather concrete.
 - (12) **Variances.** Where the location of a sidewalk in accordance with the specifications established herein would severely conflict with the location of trees, or the root systems thereof, a written variance to the specifications may be issued by the Public Works Department permitting the sidewalk to be located so as to reduce such conflict. No variance shall be issued if the public safety or welfare would be adversely affected thereby.
 - (13) **Higher Standards.** Where deemed necessary by the Village of Elk Mound, higher sidewalk standards may be required by the Village Board or Public Works Department.
- (f) **Repair or Replacement of Defective or Damaged Sidewalks.**
- (1) **Sidewalk Repair/Replacement.**
 - a. Normal repair and/or replacement of existing sidewalks is done by the Village pursuant to Subsection (c) above.
 - b. Property owners installing new driveways, or making any other improvements affecting or altering existing curbs, gutters, sidewalks or driveway approaches shall be responsible for effecting repairs or reconstruction of such curbs, gutters, sidewalks or driveway approaches and shall be responsible for the cost of such construction, repair, or reconstruction. Property owners who damage such improvements shall also be responsible for the cost of such repair or reconstruction (i.e. damage due to construction equipment or the placement of a dumpster).
 - c. Pursuant to Sec. 66.0907, Wis. Stats., the Village Board may order at any time property owners to repair or remove and replace any sidewalk which is unsafe,

defective or insufficient, or which is damaged by the acts of the property owner or his/her agents. If the property owner shall fail to so repair or remove and replace such sidewalk within twenty (20) days after service of the notice provided in the Wisconsin Statutes, the Village Board or its designee shall repair or construct such sidewalk and the Village Clerk-Treasurer shall enter the total cost thereof upon the tax roll as a special tax against said lot or parcel of land. If an emergency situation exists which is caused by a sidewalk in need of repair, the Village Board or its designee shall immediately direct the property owner to immediately make repairs. If the property owner shall fail to repair such sidewalk within the required period, the Village Board shall make the necessary repairs and the Village Clerk-Treasurer shall enter the total cost thereof on the tax roll as a special tax against said parcel.

(2) **Repair Criteria.**

- a. The Village Board may determine that any sidewalk which is unsafe, defective, or insufficient be repaired or removed and replaced with a sidewalk in accordance with this Section. The existence of any one or more of the hereinafter enumerated characteristics may determine whether a sidewalk is defective or insufficient:
 1. Three-fourths ($3/4$) inch or more vertical differential between adjacent individual sidewalk blocks (crack in slab).
 2. One and one-fourth ($1-1/4$) inch horizontal distance between adjacent individual sidewalk blocks.
 3. Deterioration of the surface to a vertical depth of one-half ($1/2$) inch or more within each individual sidewalk block.
 4. Cracked blocks (regardless of the width of the crack) on either side of the block that is defective per these specifications.
 5. Poles, trees or other objects creating hazards.
 6. Sidewalk sections which are out of conformance with design grade to the degree that water ponds.
 7. Broken corners which are greater than three (3) inches in any dimension.
 8. Blocks deemed to be unsafe because of surface deterioration.
 9. Sidewalk blocks which were previously found to be defective upon subsequent inspection.
- (3) **Deficiency Formula.** If sixty-five percent (65%) of a sidewalk's blocks are determined to be defective or insufficient, the entire sidewalk shall be replaced.
- (4) **Procedure.**
- a. *Authority of Village Board; Inspections.*

1. The Village Board may order by ordinance or resolution sidewalks to be repaired as provided in this Subsection. The Village Board designates the Public Works Department, as the Village entity responsible for the inspection of sidewalks in the community. The Public Works Department, shall, or through a designated agent, recommend which sidewalks in the community are in need of replacement. In the alternative, the Village Board may assign such duties to a standing or special committee, working with the Public Works Department.
 2. By September 1st, the Public Works Department, shall inform the Village Clerk-Treasurer which sidewalks are recommended for replacement during the next budget year.
 3. Defective sidewalks on streets to be reconstructed are to be replaced in all cases as part of the street reconstruction project.
- b. **Repair Order.** The Village Board may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the Village Board.
- c. **Notice.** A copy of the ordinance, resolution or order directing the removal, replacement or repair of sidewalks due to damage caused by the property owner shall be served upon the owner or an agent, of each lot or parcel of land in front of which the work is ordered. The Public Works Department or the Village Engineer if so requested by the Village Board, may serve the notice. Service of the notice may be made by any of the following methods:
1. Personal delivery.
 2. Certified or registered mail.
 3. Publication in the official newspaper as a Class I notice, under Ch. 985, Wis. Stats., Wis. Stats., together with mailing by 1st class mail if the name and mailing address of the owner or an agent can be readily ascertained.
- d. **Default of Owner.** If the owner neglects for a period of twenty (20) days after service of notice under Subsection (e)(3) to lay, remove, replace or repair the sidewalk he/she has damaged, the Village of Elk Mound 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 except as provided in the Wisconsin Statutes.
- e. **Minor Repairs.** If the cost of repairs or any sidewalk damaged by a property owner in front of any lot or parcel of land does not exceed the sum of Five Hundred Dollars (\$500.00), the Public Works Department may immediately repair the sidewalk, without notice, and charge the cost of the repair to the owner of the lot or parcel of land, as provided in this Section.
- f. **Expense.** The Public Works Department shall keep an accurate account of the expenses of laying, removing and repairing sidewalks damaged by a property owner, whether the work is done by contract or otherwise, and report the expenses to the Village Board. The Village shall annually prepare a statement of the expense incurred in front of each lot or parcel of land and report the amount

to the Village Clerk-Treasurer. The amount charged to each lot or parcel of land shall be entered by the Village Clerk-Treasurer in the tax roll as a special tax against the lot or parcel of land and collected like other taxes upon real estate. The Village Board, by resolution or ordinance, may provide that the expense incurred may be paid in three (3) annual installments, and the Village Clerk-Treasurer shall prepare the expense statement to reflect the installment payment schedule. If annual installments for sidewalk expenses are authorized, the Village Clerk-Treasurer shall charge the amount to each lot or parcel of land and enter it on the tax roll as a special tax against the lot or parcel each year until all installments have been entered, and the amount shall be collected like other taxes upon real estate. The Village Board may provide that the Public Works Department or Village Engineer perform the duties imposed by this Section on the Village Board.

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

State Law Reference: Sec. 66.0907, Wis. Stats.

Sec. 6-2-3 Curb and Gutter Construction.

All cement curb and gutter hereafter rebuilt or constructed in the Village of Elk Mound shall be constructed according to the following specifications:

- (a) **Establishment.** No curb and gutter shall be worked until the grade thereof has been established according to the records on file in the office of the Village Clerk-Treasurer. No person shall alter the grade of any curb and gutter within the Village of Elk Mound by any means whatsoever, unless authorized or instructed to do so by the Village Board or the Public Works Department.
- (b) **Responsibility for Construction.**
- (1) **Cost of New Curb and Gutter; Reconstruction.** The cost of new or reconstructed curb and gutter shall be as prescribed in Section 6-2-2(c) for sidewalks.
 - (2) **Replacement/Repair.** The cost of replacement/repairs for curb and gutter shall be as prescribed in Section 6-2-2(c) for sidewalks.
- (c) **Contract with Village Required.** No person shall hereafter lay, remove, replace, or repair any curb and gutter within the Village of Elk Mound unless he/she is under contract with the Village to do such work.
- (d) **Specifications.** All curb and gutter within the Village of Elk Mound shall be repaired, rebuilt and constructed in accordance with specifications prescribed by the Public Works Department.

Sec. 6-2-4 Excavations of Streets, Alleys, Public Ways and Grounds.

(a) Permit Required.

- (1) **Permit to Be Obtained.** No person, partnership or corporation, or their agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or Village-owned easement within the Village of Elk Mound without a permit therefor from the Village Clerk-Treasurer or Public Works Department.
- (2) **Fee.** The fee each application for a street opening permit shall be as prescribed in Section 1-3-1 plus any actual Village expenses. Applications may be made for multiple street openings on one (1) application form, at the required fee; however, each opening must be listed at the time the application is submitted to the Public Works Department for approval. Permit fees shall be paid to the Village Clerk-Treasurer who shall issue a receipt therefore. If the street opening is made prior to the receipt of an approved street opening permit from the Public Works Department, the application and review fee shall be as prescribed in Section 1-3-1 plus any actual Village expenses.
- (3) **Fee; Emergency Excavation.** In the event of an emergency excavation for the protection of property, life, health, or safety and as authorized in Section 6-2-4(h), there shall be no permit fee (except any actual Village expenses shall be charged to the permittee) provided the application for the street opening permit is filed with the Public Works Department within two (2) regular business days of the excavation in accordance with Section 6-2-4(h). If the permit application for the emergency excavation is not filed within two (2) regular business days, the application and review fee shall be as prescribed in Section 1-3-1 plus any actual Village expenses.
- (4) **Surcharge.** In addition to any permit fees or Village expenses, a surcharge shall be levied for any street opening which is in, or disturbs the paved portion (final surface) of any public street, public alley, public way, public ground, public sidewalk, or Village-owned easement within the Village of Elk Mound. The surcharge shall be determined as follows:

Age of the Final Paving	Surcharge
New pavement to one (1) year	5 times the permit fee
1 year to 2 years	4 times the permit fee
2 years to 3 years	3 times the permit fee
3 years to 4 years	2 times the permit fee
4 years to 5 years	1 times the permit fee
More than 5 years	No surcharge

- (b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his/her agent. The applicant shall submit to the Village Clerk-Treasurer or

Public Works Department, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The Village Clerk-Treasurer or Public Works Department shall determine if sufficient information is submitted.

- (c) **Village Work Excluded.** The provisions of this Section shall not apply to excavation work under the direction of Village departments or employees or to contractors performing work under contract with the Village necessitating openings or excavations in Village streets.
- (d) **Validity of Permit.** Permits shall be valid for a period of thirty (30) days from the date of approval, except as provided for under Section 6-2-4(g) for pavement replacement.
- (e) **Renewal of Permit.** If operations have begun under an approved permit and will continue beyond the thirty (30) day validation period, the permittee shall apply for a thirty (30) day permit renewal by written request to the Village Clerk-Treasurer or Public Works Department. Permit renewals shall be issued at the discretion of the Village Clerk-Treasurer or Public Works Department.
- (f) **Village Standards.** All street work shall be performed in accordance with the current standard specifications for street openings found in this Section and Section 6-2-4. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
- (g) **Insurance.** At the time of permit application, a permittee must furnish the Village with satisfactory written evidence that he/she has in force and will maintain during the life of the permit and the period of excavation, insurance, with the Village of Elk Mound designated as an additional named insured, as follows:
 - (1) **Worker's Compensation.** Worker's compensation with limits as prescribed by the State of Wisconsin.
 - (2) **Motor Vehicle Liability.** Comprehensive motor vehicle liability with limits of Five Hundred Thousand (\$500,000.00) for injuries to one (1) person and Five Hundred Thousand (\$500,000.00) for any one (1) accident and property damage of not less than Five Hundred Thousand Dollars (\$500,000.00). Motor vehicle liability shall cover owned, non-owned and hired vehicles.
 - (3) **General Liability.** Comprehensive general liability, with limits of not less than One Million Dollars (\$1,000,000.00) each occurrence. The insurance coverage shall include the acts or omissions of any contractor, his/her employees, agents or subcontractors, and include explosion, collapse and underground liability coverage. A form of blanket contractual liability to indemnify and save harmless the Village of Elk Mound, its officers, agents and employees from any and all liability for accidents or damage caused by or arising from any work covered by the permit shall also be included in such insurance coverage.
 - (4) **Completed Operations and Product Liability.** This policy shall provide completed operations and product liability coverage for the period of time set forth in the permit and any extensions thereof and for a period one (1) year after final completion of the work. Limits of liability shall be the same as general liability.

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- (5) ***Umbrella Policy.*** The limits of liability mentioned above can be provided through split limits or through a combination of underlying an umbrella liability. Limits mentioned are minimum to be provided under any policy or combination of policies.
- (h) **Bond/Cash Deposit.**
- (1) Whenever the Public Works Department estimates that an excavation/opening project will involve over Five Thousand (\$5,000.00) in work and before a permit for excavating or opening any street or public way for such project may be issued, the applicant must execute and deposit with the Village Clerk-Treasurer, determined and approved by the Public Works Department, an indemnity bond or cash deposit, as directed by the Village, in the sum of not less than One Thousand Dollars (\$1,000.00) up to Ten Thousand Dollars (\$10,000.00), conditioned that he/she will indemnify and save harmless the Village of Elk Mound and its officers/employees from all liability for accidents and damage caused by any of the work covered by his/her permit, and that he/she will fill/restore and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he/she may make as near as can be to the state and condition in which he/she found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Village Board for a period of one (1) year, and that he/she will pay all fines of forfeitures imposed upon him/her for any violation of any rule, regulation or ordinance governing street openings or drainlaying adopted by the 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 of Elk Mound. 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. Recovery on such bond for any accident, injury, violation of law, ordinance, rule or regulation shall not exhaust the bond but it shall cover any and all accidents, injuries or violation of law during the period of excavation for which it is given.
 - (2) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning January 1, which shall be conditioned as specified above and in the amount determined by the Public Works Department as necessary to adequately protect the public and the Village of Elk Mound.
 - (3) Faulty work or materials shall be immediately replaced by the permittee upon notice by the Village of Elk Mound. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Public Works Department shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
 - (4) The person who does such restoration shall be responsible therefor for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the Village in an amount determined by the Public Works Department.

- (5) Whenever the Village Board shall find that any such work has become defective within one (1) year of the date of completion, it shall give written notice thereof to the contractor or to his/her surety 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 or the surety must, within the time specified, repair the defect or indemnify the Village of Elk Mound for the cost of doing the work as set forth in the notice.
- (i) **Public Utilities.** All public utilities as defined in Sec. 66.0801 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this Section and Section 6-2-5, any and all subparagraphs thereunder, except that a public utility as defined within this Section shall not be required to post the indemnity bond.

Sec. 6-2-5 Regulations Governing Excavations and Openings.

- (a) **Notification.** An applicant who has been issued a street excavation permit shall notify the Village of Elk Mound of the date on which work will begin and the period of time required to complete the project. No excavation authorized under this Chapter may be initiated until such notification has been made by the applicant.
- (b) **Digger's Hotline.** An applicant who has been issued a street excavation permit shall notify, obtain clearance from, and adhere to the requirements of Digger's Hotline. No excavation authorized under this Chapter may be initiated until such notification has been made and clearance has been obtained.
- (c) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and May 1st except where it is determined by the Public Works Department or his/her designee to be an emergency excavation.
- (d) **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 Public Works Department and in accordance with Section VI of WisDOT's *Manual of Uniform Traffic Control Devices*. 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 Public Works Department, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.
 - (2) All barricades shall comply with the following standards:
 - a. Barricades and construction warning signs shall be erected, marked and reflectorized in conformance with the Wisconsin Department of Transportation's *Manual of Uniform Traffic Control Devices*, latest edition and revisions.
 - b. All barricades used at night shall be lighted with an average of one (1) flasher per barricade.

- c. A construction warning sign, illuminated with at least one (1) flasher, shall be placed adjacent to the roadway approximately two hundred (200) feet in advance of the barricaded area.
 - d. Each barricade shall have the excavating contractor's name, address and telephone number marked prominently thereon or that of an authorized barricade rental agency. The telephone number shall be such that the contractor or an authorized representative can be reached twenty-four (24) hours a day.
- (3) 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 of Elk Mound 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/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
 - (4) 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/her 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.
 - (5) 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 Public Works Department twenty-four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6-2-4(b).
 - (6) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-2-4(g).
 - (7) Trenches adjacent to the roadway left open during non-working hours shall be protected with snow fence along the entire trench edge and shall be marked with flashing barricades at each end.
 - (8) No equipment or construction materials may be stored during non-working hours within a Village roadway right-of-way.
 - (9) No steel track construction equipment may be driven on or over paved Village of Elk Mound roadways without authorization from the Public Works Department.
 - (10) Prior to beginning any work on Village roadways, the Village Clerk-Treasurer's office and Public Works Department shall be given the names and telephone numbers of at least two (2) contractor employees who may be contacted during non-working hours.

- (11) Construction materials spilled or tracked on pavement shall be swept off by power broom equipment as soon as practical.
- (12) No excavated materials may be stored temporarily or permanently within a Village roadway right-of-way.
- (13) The Village of Elk Mound may elect to have the Village or an outside contractor make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening.

(e) **Pavement Removal.**

- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of his/her work and in accordance with all applicable codes and regulations.
- (2) Precautions shall be taken to prevent damage to road pavements. Sheathing and bracing or the use of a portable trench box should be used to prevent undermining of material below the existing pavement. If damage is done to the pavement, it shall be restored.
- (3) 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 Public Works Department or its designee shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.
- (4) 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.
- (5) The Public Works Department or its designee may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.

(f) **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.

(g) **Backfilling.**

- (1) Trench backfilling shall be accomplished as follows:
 - a. The backfill from the bottom of the utility pipe/conduit to an elevation one (1) foot above the pipe/conduit shall be fine granular material carefully placed by hand and well-tamped to fill completely all the spaces under and adjacent to the pipe/conduit so as to form a bed that will preclude subsequent settling. Compaction shall achieve a ninety-five percent (95%) of maximum dry density at optimum moisture as determined in accordance with *Method of Test for Moisture-Density Relations of Soils, AASHTO Designation T180-74*.
 - b. The remainder of the backfill may consist of suitable native soils with proper moisture content for maximum compaction. The contractor shall have and use at the job site a vibrating compactor before starting to backfill. The backfill shall be uniformly compact to at least ninety-five percent (95%) maximum dry density at optimum moisture as determined by the *Method of Test for Moisture-Density Relations of Soils, AASHTO Designation T 180-74*.
 - (2) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than six (6) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Public Works Department or its designee, is unsuitable.
 - (3) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Public Works Department or its designee, hauled in.
 - (4) 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.
 - (5) The Village of Elk Mound may perform compaction control tests at such frequency and at such depths as it deems necessary to verify compliance with the compaction requirements of state highway construction standards.
 - (6) All excavations shall be subject to testing by the Village of Elk Mound. 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.
 - (7) 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.
- (h) **Notice.** It shall be the duty of the permittee to notify the Public Works Department and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Public Works

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

(i) **Pavement Replacement and Sidewalk, Curb and Gutter and Driveway Restoration.**

- (1) Backfill material shall be left below the original surface to allow for five (5) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.
- (2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one and one-half (1-1/2) inch layers with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge. If hot mix is temporarily not available, the hot mix shall be temporarily replaced with cold mix. The cold mix shall be removed and replaced with hot mix upon availability.
- (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the Public Works Department or its designee.
- (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform with the grade of the existing adjacent curb and gutter. Existing grass and terrace areas shall be covered with a minimum of four (4) inches of topsoil. Topsoil shall be seeded with perennial grass seed at a rate of two (2) pounds per one thousand (1,000) square feet.
- (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the Village Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.
- (6) Sidewalks shall be replaced the full width of the sidewalk and minimum length shall be sixty (60) inches. All replaced sidewalk shall be four (4) inches thick, except at driveways where it shall be six (6) inches thick. The new walk shall slope to conform to existing construction across the width of the walk toward the street.

- (7) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three and one-half (3-1/2) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.
- (8) When a street is reconstructed, utility laterals shall also be installed.
- (j) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his/her agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify Village officials immediately.
- (k) **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, the Village shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street, that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Village Board, or committee thereof, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces.
- (l) **Repair by Village.** The Village of Elk Mound may elect to make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one (1) year shall be charged to the person making the street opening. In the event such charges are not paid within ninety (90) days of actual notice of the same having been furnished the applicant and owner of the premises for which said permit was issued, it shall become a lien against said premises and thereafter be assessed and collected as a special tax.
- (m) **Settlement of Work Performed.** Settlement of the street surfacing, curb and gutter and/or driveway approaches, irregardless of who installed such the same, within one (1) year from the date of trench backfilling shall be construed as evidence of inadequate compaction and the contractor who backfilled the trench and the surety shall be responsible for the replacement of the street surfacing. Each successive replacement by the contractor shall be subject to satisfactory performance for a period of one (1) year.

Sec. 6-2-6 Obstructions and Encroachments.

- (a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he/she is the owner or occupant. Examples of prohibited encroachments or encumbrances include private underground utility installations such as sprinkler systems and "invisible" dog fencing; as well as decorative berms or plantings within the road right-of-way. Exceptions are provided in Subsections (b) and (c).
- (b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:
- (1) Temporary encroachments or obstructions authorized by permit under Section 6-2-7 or this Section pursuant to Sec. 66.0425, Wis. Stats.
 - (2) Building materials for the period authorized by the Public Works Department 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 [see Section 6-2-7].
 - (3) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.
 - (4) Signs or clocks attached to buildings which project outward from properties not more than six (6) feet from the face of any such building, unless otherwise approved and which do not extend below any point ten (10) feet above the sidewalk, street or alley, unless otherwise approved by the Village Board.
 - (5) Awnings which do not extend below any point seven and one-half (7.5) feet above the sidewalk, street or alley.
 - (6) Public utility encroachments authorized by state law or the Village Board.
 - (7) Planters, benches, hanging flower pots and banners which are part of a motif and which have been authorized by the Village Board, and are located in a Commercial District, provided that the encroachment shall leave a minimum of four and one-half (4.5) foot width of public sidewalk clearance and all hanging items must be a minimum height of seven and one-half (7.5) feet to the bottom of the hanging fixture above the sidewalk, street or alley.
 - (8) Goods, wares, merchandise or fixture being temporarily loaded or unloaded which do not extend more than three (3) feet on the sidewalk, provided that such goods, wares, etc. do not remain thereon for a period of more than four (4) hours.
- (c) **Merchandise or Personal Property on Sidewalks.** Unless expressly authorized to do so by the Village Board, no person shall use the sidewalk, or any part thereof, for the display of merchandise or the storage of any merchandise or other personal property. The only exception to this provision is that storage of merchandise or other personal property is allowed when it meets all of the below enumerated conditions. Under this exception, property owners may place certain fixtures on sidewalks which immediately adjoin their property if the following requirements are met:

- (1) The property must be located in an area zoned for, or primarily used for, commercial/business uses.
 - (2) Fixture(s) for display of merchandise shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.
 - (3) The placement of the fixture shall not significantly impede the flow of pedestrian traffic on the sidewalk. No person shall obstruct or impede the pedestrian right-of-way of any paved public sidewalk with any merchandise or personal property, except as provided herein. Merchandise shall be located adjoining the building it is marketed from and shall not encroach more than thirty (30) inches from the building facade and in all cases, the unobstructed sidewalk area must be a minimum of five (5) contiguous feet in width in order to comply with the Americans with Disabilities Act (ADA) requirements, as from time to time amended.
 - (4) Displayed merchandise shall be consistent to that sold within the business and shall not include food or beverage items.
 - (5) Displayed merchandise or personal property must be removed each day following the close of business, but in no event shall the merchandise be permitted outdoors between the hours of 6:00 p.m. and 7:00 a.m. nightly.
 - (6) Displaying merchandise or personal property on a paved sidewalk shall constitute express permission of the property and/or business owner for the Village to take corrective, remedial and removal action(s). The Village of Elk Mound may also prosecute violations of this Subsection and seek injunctive relief, from time to time and at any time. The cost of such correction, remediation, and/or removal shall be paid by the property or business owner(s).
 - (7) The property and business owners are jointly and severally liable for any and all injury to any person or property directly and/or indirectly caused by their joint or several negligence and/or activities occurring on the paved sidewalk under this Subsection.
- (d) **Immediate Removal by Village for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any Village enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section and poses a serious and immediate threat to public safety, he/she shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.
- (e) **Immediate 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 the Public Works Department, Zoning Administrator, Building Inspector or law enforcement officer determines that a Village of Elk Mound street, alley, public grounds or land dedicated for public use is obstructed or encumbered and poses a serious and immediate threat to public safety, he/she shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within twenty-four (24) hours.

(f) **Non-Emergency Removal of Obstructions and Encroachments on Public Property.**

- (1) Whenever the owner or person in possession or control of any obstruction or encroachment in or upon any street, sidewalk, public ground or public right-of-way in the Village of Elk Mound deemed by the Village to be a non-emergency situation shall refuse or neglect to remove the same within thirty (30) days after written notice, or without notice if the owner cannot readily be located for the purpose of receiving such notice, or if the Village determines that the obstruction or encroachment poses an urgent threat to the public health and safety under Subsections (d) and (e) above, the same shall be deemed a nuisance requiring removal or modification as directed by a Village enforcement official.
- (2) Examples of prohibited obstructions and encroachments on public property and rights-of-way are, but are not limited to, the placement of landscaping boulders, timbers or large objects, mailboxes not meeting the standards of Section 6-2-21, permanently mounted sports apparatus, improperly placed driveway standards, unauthorized structures of any kind, etc. In the event the compliance notice is not complied with within the time specified, the Village of Elk Mound may take appropriate action, including, but not limited to, issuance of a citation, and/or cause the removal of such obstruction or encroachment. The expense of any such enforcement and removal actions by the Village shall be billed to the property owner, and, upon nonpayment, will be placed as a special charge on the taxroll against the property. It shall also be a separate offense under this Subsection for any property owner or person in possession or control of an obstruction or encroachment to resist an enforcement action taken by the Village of Elk Mound. An exception to this Subsection shall be any Village-authorized temporary obstructions or encroachments permitted under this Code of Ordinances or state law.

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

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

Sec 6-2-7 Street Privilege Permit.

(a) **When Required.**

- (1) Street privilege permits for the use of the streets, alleys, sidewalks or other public right-of-ways or places of the Village of Elk Mound may be granted to applicants by the Public Works Department for the purpose of, but not limited to:
 - a. Moving any building or structure;
 - b. Encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure; or
 - c. Parking of construction equipment or trailers.
- (2) Such applicant shall comply with other applicable requirements of this Section and has obtained a building permit if required by this Code of Ordinances.
- (3) The Public Works Department may request advisory recommendations from the Zoning Administrator, Fire Chief, Building Inspector and law enforcement authorities prior to issuance of the permit. Village officials may attach conditions to the permit, including proof of liability insurance.
- (4) Temporary placement of merchandise on sidewalks shall be governed by Section 6-2-6.

(b) **Bond/Cash Deposit.** No street privilege permit shall be issued until the applicant shall execute and file with the Village Clerk-Treasurer a bond or cash deposit in an amount determined by the Public Works Department not exceeding Ten Thousand Dollars (\$10,000.00), conditioned that the applicant will indemnify and save harmless the Village of Elk Mound from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the Village resulting from such building or moving operations. Upon request to the Village Board, the Village Board may waive this requirement.

(c) **Fee.** The fee for a street privilege permit shall be as prescribed in Section 1-3-1, plus any actual Village costs.

(d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Zoning Administrator, Fire Chief, Public Works Department, Building Inspector, or law enforcement officer 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 or Public Works Department, 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, upon the recommendation of the Public Works Department, Village Clerk-Treasurer and law enforcement authorities.
 - (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
- (e) **Termination.** All street privilege permits shall automatically terminate at the end of three (3) months from the date of issuance unless an earlier termination date is specified thereon at the discretion of the Village Board, Village Clerk-Treasurer or Public Works Department.
- (f) **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 Board or designee to do so, it shall be the duty of the Village to remove such obstruction and make return of the costs and expenses thereof to the Village Clerk-Treasurer who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, and such sum shall be levied and collected as other special taxes against real estate.

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

Sec. 6-2-8 Snow and Ice Removal.

- (a) **Removal From Sidewalks.** Within twenty-four (24) hours after the cessation of any fall of sleet or snow, it shall be the duty of the owners and/or the occupants of any lot or parcel of land in the Village of Elk Mound to remove, or cause to be removed, the snow or sleet from any and all sidewalks and the nearest cross-side-walks adjacent to the premises of such owner or occupant, and to keep the same free and clear of snow and ice for the full width of the sidewalk.
- (b) **Failure to Remove.** In case of failure or neglect of any owner or occupant of any land or parcel of land to remove the snow from sidewalks as specified in Subsection (a) within

the time set forth in said Subsection and, after twenty-four (24) hours after the cessation of any fall of snow, the owner or occupant has failed to remove such snow from sidewalks as specified in Subsection (a), the Public Works Department shall remove or cause the snow to be removed from any and all sidewalks and cross-sidewalks that may be so neglected by the owner or occupant, and a fee established by the Village Board shall be assessed against the owner or occupant for the cost and expense of moving such snow. The fee will be charged against the respective lots and parcels of land adjacent to which said work shall be done, as a special charge, and such sum or sums shall be collected in the same manner as other special taxes.

(c) **Snow and Ice Not to Encroach.**

- (1) **Streets and Sidewalks.** 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. Failure to remove snow and ice within twenty-four (24) hours shall also constitute a public nuisance and subject responsible persons to the penalties applicable for violation of Village public nuisance ordinances.
- (2) **Handicapped Parking Spaces.** No person, firm, corporation or partnership or the owner, tenant, lessee or occupant of any premises having parking spaces reserved for handicapped drivers or any contractor employed for the removal of snow and ice shall block access to parking spaces reserved for handicapped drivers by the plowing, piling or placement of snow and ice in such reserved spaces.
- (3) **Fire Hydrants.** It shall be unlawful to cover a fire hydrant with snow or ice.
- (4) **Improper Disposal on Private Property Without Authorization.** No person, firm, corporation, property owner or occupant shall remove snow or ice from any parcel of real estate and place it upon another parcel of real estate without the express permission of the owner of the parcel of real estate upon which the snow or ice is to be placed.
- (5) **Improper Deposit Across Roadways.** No person, firm or corporation shall plow, shovel, push or blow across and deposit upon any public roadway, street, or right-of-way in the Village of Elk Mound significant quantities of snow and/or ice taken or removed from property privately owned or occupied, or cause said actions to occur.
- (6) **Improper Deposit Upon Roadways.** No person, firm or corporation shall deposit, or cause to be deposited, in or upon the traveled portion of any public roadway or street in the Village of Elk Mound significant quantities of snow and/or ice taken or removed from property privately owned or occupied.
- (7) **Deposit of Snow/Ice Near Corners.** No person, firm or corporation shall deposit or store, or cause to be deposited or stored, in or upon any portion of a public right-of-way

in the Village of Elk Mound that lies within twenty-five (25) feet of the corner of any public roadway or street snow and/or ice taken or removed from property privately owned or occupied.

- (8) **Prima Facie Violations.** The existence of any significant quantities of snow and/or ice deposited by mechanical, blowing or other artificial means in violation of the Subsections above on any public roadway, street or right-of-way shall be prima facie evidence that the owner or occupant of the abutting or adjacent property with closest roadway access thereto placed or deposited said snow and/or ice across or upon said public roadway, street or right-of-way.
- (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. Failure to remove snow and ice within twenty-four (24) hours shall also constitute a public nuisance and subject responsible persons to the penalties applicable for violation of Village public nuisance ordinances per Section 1-1-6.
- (e) **Abatement After Notice.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (a) shall result in a citation being issued to violators and/or the Village causing the removal of said snow and/or ice and billing the cost thereof pursuant to Subsection (g) below.
- (f) **Expense.** An account of the expenses incurred by the Village of Elk Mound 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; such charge shall be based on a minimum Village charge in addition to removal and administrative expenses. Said expenses shall be not less than as prescribed in Section 1-3-1. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within thirty (30) days after such costs and expenses are incurred and remain unpaid, the Village Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.0627, Wis. Stats.
- (g) **Definitions.** For purposes of this Section:
 - (1) **Significant Quantities of Snow and/or Ice.** Snow and/or ice in quantities such that public safety, traffic visibility, structural integrity of roadways, snow storage capacity for Village snow removal activities, or drainage capabilities of ditches in public right-of-ways are impaired, as determined by the Village of Elk Mound.
- (h) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation which violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances.

State Law Reference: Sec. 66.0627, Wis. Stats.

Sec. 6-2-9 Terrace Areas.

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-3(d).
- (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, sprinkler systems, stone/brick address standards, decorative berms, "invisible" dog fencing, and other objects shall not be placed in the terrace area.
- (c) **Responsibility to Maintain.** Every owner of land in the Village of Elk Mound whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code of Ordinances. Every owner shall keep mailboxes and water hydrants located on a terrace free and clear of snow.

Cross-Reference: Title 6, Chapter 4.

Sec. 6-2-10 Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

Sec. 6-2-11 Requests for Improvements.

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

Sec. 6-2-12 Unlawful Dumping on Streets.

It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk, alley, or upon any public property or upon any property of another, without the express permission of the owner or occupant thereof. Such unlawful material or obstruction may be removed by the Village of Elk Mound and the cost thereof billed to the violator pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-2-13 Street Numbers.

(a) Numbering System Established.

- (1) **Uniform Numbering System.** There is hereby established a uniform system of numbering houses, mobile homes and buildings (residential and non-residential) fronting on all streets, roads and highways in the Village of Elk Mound, and all houses, mobile homes and buildings shall be numbered in accordance with this Section. Failure to be in compliance with this Section shall be a violation of the Village of Elk Mound Code of Ordinances. The Village shall have sole authority to determine the type of uniform numbering system to be used, the method of address number display, and the type of required address number signage.
- (2) **Purpose.** A uniform numbering system is established to protect the public health and safety through requiring consistency in the type and placement of address numbers, assisting in the provision of government services and helping emergency services personnel to efficiently respond to calls for assistance and other emergency situations.
- (3) **Types of Address Signage.** Upon the recommendation of emergency services providers, the Village of Elk Mound may elect to use uniform address numbering on signs placed perpendicular to the roadway, or, at the option of the Village, parallel to the roadway or on buildings, provided that the designated signage shall be uniform throughout the Village. In addition, a property may also have address numbers placed on the primary building located on that property as supplemental signage if free-standing address signs are also required.
- (4) **Assignment of Numbers.**
 - a. The Building Inspector shall determine and assign address numbers per this Section. The Village Board shall determine the uniform display method to be utilized and any associated assignment of costs.
 - b. As a condition of the issuance of a building or zoning permit, whenever any house, mobile home, multi-family building, or non-residential building or structure is erected or located in the Village of Elk Mound, the owner (s) shall procure the correct number(s) from the Village at the time of application for a building permit for the property and shall within two (2) months of occupancy install the address number signage required by this Section. No building or zoning permits shall be issued for any house, building or structure until the owner has procured from the Village the official street address of the premises.
 - c. To facilitate correct address numbering, a map, plat book or other record showing all streets and roads within the Village of Elk Mound indicating the numbers of all lots or houses fronting thereon shall be kept on file with the Village Clerk-Treasurer.
 - d. Where any building has more than one (1) door serving separate occupants, a separate number shall be assigned, at the discretion of the Village, to each door serving a separate occupant, provided the building is twenty-five (25) feet or

more in width. If the building is not twenty-five (25) feet or more in width and entrances are not that far apart, the next consecutive number shall be marked fractionally.

- e. Buildings fronting on two (2) or more streets/roads shall have a number assigned only to the primary entrance side, unless other entrances serve different occupants.
- f. All mobile home parks are required to have street numbers assigned and installed pursuant to this Section for each mobile home unit or lot.
- g. All streets and roads not extending through the base line shall be assigned the same relative numbers as if the street or road had extended to the base line.

(b) **Address Number Signage Standards.**

(1) ***Perpendicular or Parallel Address Signs.***

- a. When required by the Village, a freestanding address sign shall be installed so that the numbers are perpendicular to the roadway, or at the option of the Village, parallel to the roadway intended for public use, whether private or public.
- b. The address sign post shall be located not more than ten (10) feet from the road right-of-way and not more than ten (10) feet from the driveway serving the principal structure on the property. The sign shall be installed to be not less than three and one-half (3 1/2) feet nor more than four and one-half (4 1/2) from ground level.
- c. Unless there has been prior approval of an exception to the standards herein, the numbers and letters on required freestanding address signs shall be white and applied on a green six (6) inch by twelve (12) inch sign, affixed to a new manufacture steel post. With perpendicular placement, the numbers and letters shall be applied to both sides of the sign so as to be visible from the street in both directions. A minimum of two (2) bolts of 3/8" diameter of galvanized steel shall be used to secure the sign to the steel post.
- d. Address signs shall not be concealed from view from the roadway. It is the responsibility of the property owner to maintain clear sign vision lines.
- e. Buildings which are located on dead-end public streets shall be assigned a number at the intersection of the dead-end street and another public road.
- f. Private streets/roads, driveways, easements and other access agreements which provide access to multiple building sites shall be required to have all parcel address numbers for all building sites posted at the intersection of the public roadway and the private street/road, driveway or access point. In addition to the signs required at the public roadway, individual building sites having a driveway accessing onto the private street/road shall have a parcel address sign installed at the intersection of the building driveway and the private roadway. If there are additional intersections of the private street/roadway, parcel address signs shall be installed at each of the intersections of those private drives that service

multiple building sites. Such address signs shall be located not more than ten (10) feet from the edge of the building driveway and not more than ten (10) feet from the private roadway. The maintenance of such address sign(s) serving parcels on a private road or easement shall be the responsibility of the property owner.

(2) **Building Placed Address Numbers.**

- a. In the alternative when directed by the Village Board, or in addition to the address signage required under Subsection (b)(1) above, address numbers may also be affixed to the house or building, at the cost of the property owner. Such numbers shall be not less than three (3) inches in height on a background of not less than three and one-half (3 1/2) inches, and shall be in contrasting colors for maximum visibility. Script numbering shall not be used for primary numbering purposes.
- b. The numbers shall be conspicuously affixed above or at the side of the primary entrance of each building so that the numbers can be plainly seen from the roadway. It is the responsibility of the property owner to maintain unobstructed views of such address numbers.

(c) **Damage to Address Signs.**

- (1) **Intentional Damage.** It shall be unlawful and a violation of this Code of Ordinances to intentionally remove, disturb, deface or damage any address sign erected or maintained under the provisions of this Section. Violators shall be subject to the penalty provisions of Section 1-1-6 and, in addition, shall be responsible for all costs associated with replacing or repairing such address sign.
- (2) **Accidental Damage.** Any person who accidentally damages an address sign, or the owner of any land whose sign is damaged or disturbed, shall immediately report the same to the Village. The owner of the damaged address sign is responsible for the cost of a replacement sign. Willful failure to report such damage is a violation of this Section, subject to the penalty provisions of Section 1-1-6.

(d) **Records.**

- (1) To facilitate correct numbering, a plat book or map of all the streets, avenues and public highways within the Village of Elk Mound showing the numbers of all lots or houses fronting thereon shall be kept on file with the Village Clerk-Treasurer.
- (2) The numbering of each street shall begin at the base line. The number in the first block shall be from 100-199, the second block shall be 200-299 and so on.
- (3) All lots and houses on the south and west sides of all streets shall be numbered with odd numbers, and all lots and houses on the north and east sides of all streets shall be numbered with even numbers, each commencing with the hundred assigned to that block and shall increase from the base line one (1) number for each twenty-five (25) feet of frontage or fraction thereof. Where any building has more than one (1) door serving separate occupants, a separate number shall be assigned to each door serving a separate occupant, providing the building is twenty-five (25) feet or more in width.

If the building is not twenty-five (25) feet or more in width and entrances are not that far apart, the next consecutive number shall be marked fractionally. Buildings fronting on two (2) or more streets shall have a number assigned only to the entrance, unless other entrances serve different occupants.

- (4) All streets not extending through to the base line shall be assigned the same relative numbers as if the street had extended to the base line.
- (5) Where only one (1) number can be assigned to any house or building, the owner, occupant or agent of such house or building, who may desire distinctive numbers for the upper and lower portion of any such house or building, or for any part of such house or building fronting on any street, may use the suffix "A", "B", or "C", etc. as may be required.

Sec. 6-2-14 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. Such unlawful material or obstruction may be removed by the Village of Elk Mound and the cost thereof billed to the violator pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-2-15 Use and/or Lease of Village Equipment and Services.

- (a) **Equipment.** The Village of Elk Mound shall not permit any private party to use and/or lease/rent any Village equipment for private purposes. However, where it is deemed to be in the public interest, such Village equipment may be rented/leased to private parties performing municipal-related work provided such equipment is operated at all times by trained Village personnel and lease/rental rates fully reflect all Village costs, including, but not limited to, wages, maintenance, insurance, non-wage compensation/benefits, etc.
- (b) **Services.** The Village of Elk Mound shall not provide specialized services such as heavy equipment services, snowplowing, etc., for private parties, whether for a fee or no fee. However, due to the unavailability of private sector service providers and in order to protect public safety, the Village of Elk Mound may provide sanding/salting services to private businesses on a fee basis.

Sec. 6-2-16 Village Public Construction Projects; No-Bid Construction.

- (a) **No-Bid Construction for Projects Performed by the Village.** Pursuant to Section 62.15(1), Wis. Stats., the Village Board by three-fourths (3/4) vote of all members-elect,

elects that any class of public construction, or any part thereof, may be performed directly by the Village of Elk Mound without submitting the same for bids. The following classes of public work, or any part thereof, may be done directly by the Village of Elk Mound or its subunits without submitting the same for bids:

- (1) Construction and/or repair or maintenance of streets.
 - (2) Laying, construction and/or repair or maintenance of sewer mains and laterals, and other system-related infrastructure.
 - (3) Laying, construction and/or repair or maintenance of water mains and laterals, and other system-related infrastructure.
 - (4) Installation, construction and/or repair or maintenance of Village or its subunits service facilities and infrastructure, including, but not limited to, street lighting.
 - (5) All public construction of which the estimated cost is less than Twenty-Five Thousand Dollars (\$25,000.00).
- (b) **Contracts, How Let.** All public construction, other than those classes exempted under Subsection (a) above, the estimated cost of which exceeds Twenty-Five Thousand Dollars (\$25,000.00), shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the Village Board shall direct. If the estimated cost of any public construction exceeds Five Thousand Dollars (\$5,000.00) but is not greater than Twenty-Five Thousand Dollars, the Village shall give a Class I Notice, under Ch. 985, Wis. Stats., of the proposed construction before the contract for the construction is executed.

Cross-Reference: Section 3-1-12 (See "donated improvements")

Sec. 6-2-17 Dirt and Debris on Streets.

- (a) **Unlawful Deposit.** In the interests of public safety, health and general welfare, community appearance, and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited, or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway, or public ground in the Village of Elk Mound.
- (b) **Owner's Responsibility for Removal.** The owner, occupant, or person in charge of private premises, which places, causes or permits to remain, any of said materials upon any street, sidewalk, alley, drainageway or public ground in the Village shall immediately remove said materials at no cost to the Village of Elk Mound.
- (c) **Refuse from Motor Vehicles.**
 - (1) The operator of any motor vehicle which tracks, drops, or places any materials upon any street, sidewalk, alley, drainageway or public ground in the Village shall immediately stop and remove said materials at no cost to the Village of Elk Mound.
 - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said

operator causes the deposition of any materials upon any street, sidewalk, alley, drainageway, or public ground in the Village of Elk Mound, and which said operator fails to remove said materials as required in Section (c) above, the owner, occupant, or person in charge of said work on said private premises, shall remove said materials at no cost to the Village of Elk Mound.

- (d) **Removal by Village.** In the event the materials are not removed from the street in accordance with Subsections (b), (c), and/or (c)(1) above, the Village shall cause the removal of such materials and shall charge said operator, or said owner, occupant, or person in charge of said work the cost of the removal. In the event the person charged for said removal fails to pay such costs within thirty (30) days, it shall be entered on the tax roll as a special tax against said property.
- (e) **Penalties.** In addition to the costs of removal, said operator, or said owner, occupant, or person in charge of said property shall be subject to a penalty per occurrence as prescribed in Section 1-1-6. Each day that said materials are not removed, shall constitute a separate offense under this Section.

Sec. 6-2-18 Damage to Streets and Public Property.

- (a) **Unlawful Damage.** In the interests of public safety, health, general welfare, community appearance, and efficiency of operation, it shall be unlawful in any way to cause damage, injury, or destruction, to any portion or any fixture of any street, sidewalk, alley, drainageway, or public ground in the Village of Elk Mound.
- (b) **Responsibility to Repair.** The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the Village of Elk Mound shall immediately stop and notify the Public Works Department that he/she has caused such damages and shall correct said damages within ten (10) days at no cost to the Village.
- (c) **Failure to Report/Correct.**
 - (1) In the event the operator of any motor vehicle or equipment which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the Village of Elk Mound, fails to report such damage, it shall be considered a violation of this Section.
 - (2) In the event said operator is performing work under the control or authority of the owner, occupant, or person in charge of the work on private premises, and said operator causes the damage of any portion or fixture of any street, sidewalk, alley, drainageway, or public ground in the Village of Elk Mound, and which said operator fails to correct said damages as required in Section (b) above, the owner, occupant, or person in charge of said work on said private premises, shall correct said damages at no cost to the Village of Elk Mound.
- (d) **Repairs by Village.** In the event the damages are not corrected within ten (10) days, the Village of Elk Mound shall cause the correction of said damages and shall charge the operator, or owner, occupant, or person in charge of said property the cost of correcting the

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damage. In the event the said costs remain unpaid following thirty (30) days, it shall be entered on the tax roll as a special tax against said property.

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

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

Sec. 6-2-19 Adoption of State Statutes Concerning Roads.

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

- (a) Sec. 82.19 Highways, Discontinuance of
- (b) Sec. 86.01 Materials Left in Highway
- (c) Sec. 86.021 Highways, Cultivation of; Injury by Farm Machinery
- (d) Sec. 86.022 Obstructing Highway with Embankment or Ditch
- (e) Sec. 86.025 Camping on Highways
- (f) Sec. 86.03 Trees, On and Adjacent to Highways
- (g) Sec. 86.04 Highway Encroachments
- (h) Sec. 86.05 Highways, Duty to Restore Entrances
- (i) Sec. 86.06 Highways, Closing to Travel
- (j) Sec. 86.07 Highways, Digging in Highways; Using Bridges for Advertising
- (k) Sec. 86.105 Driveways, Snow Removal
- (l) Sec. 86.19 Highway Signs, Regulation, Prohibition
- (m) Sec. 146.13 Highways and Surface Waters, Discharging Noxious Matter Into

Sec. 6-2-20 Grass Clippings.

Except as provided herein, all grass clippings from lawnmowing or other sources shall not be allowed to accumulate upon any public street or be dumped on a public right-of-way in such a manner in the Village of Elk Mound where such grass clippings could wash into any storm sewer drainage inlet in significant quantities. Grass clippings may be brought to the Village-designated yard waste site. At no time may grass clippings and other yard waste be placed in ditches or drainageways.

Sec. 6-2-21 Mailbox Placement Standards.

- (a) **Purpose; Authorization.** This Section is intended to establish standards for the safe installation and maintenance of mailboxes within the right-of-way adjacent to streets, roads and highways in the Village of Elk Mound. Proper mailbox placement and design is important for users of public roads and Village public works functions as well as for mail delivery. A person may install and maintain a mailbox within the Village right-of-way adjacent to or near the person's residence or the place of business being served provided the mailbox complies with all United States Postal Service (USPS) requirements and the standards of this Section, whichever are more restrictive.
- (b) **Definitions.** The following definitions shall be applicable in this Section:
- (1) **Mailbox.** Any receptacle or device used to receive or collect mail, newspapers, packages or similar items erected at the edge of a roadway or street curbside and is intended to be served by a mail carrier from a vehicle. The term includes any structure used to support the mailbox. It consists of a lightweight sheet metal or plastic box meeting the design specifications of the United States Postal Service (USPS) and has the inscription "U.S. Mail" and/or "Approved By The Postmaster General".
 - (2) **Breakaway Support.** A post meeting the standards of this Section which supports a mailbox and is designed to have minimal resistance to a vehicle crash.
 - (3) **Custom-Built Mailbox.** A mailbox erected at the edge of a roadway or curbside of a street which does not meet the standards of the USPS and/or this Section, typically one which is decorative in design.
 - (4) **Cluster-Style Mailboxes.** An installation method whereby mailboxes meeting the specifications of the USPS and this Section are assembled and grouped together on a single area of land so that they function as one point for mail delivery.
- (c) **Siting of Mailboxes; Placement Standards.**
- (1) **Placement of a Mailbox on a Rural Profile Road.** The bottom of the mounted mailbox shall be between forty-two (42") and forty-eight (48") inches from the surface of the road. A height of forty-seven (47") inches is the preferred height. The face of the mailbox shall not be less than twelve (12") inches from the edge of the pavement.
 - (2) **Placement of a Mailbox on a Street With a Curb.** The bottom of the mounted mailbox shall be between forty-two (42") and forty-eight (48") inches from the surface of the road. The mailbox shall be positioned so that the door is six (6") to twelve (12") inches back from the face of the curb.
 - (3) **Standards Regarding Location, Visibility and Obstruction.** Except where otherwise specifically provided in this Section, all mailboxes shall be erected:
 - a. On the lot of the property being served, unless a cluster-style arrangement is authorized by both the Postmaster and the Village of Elk Mound;

- b. On the right hand side of the road (the left side is permissible on one-way roads);
 - c. Away from the intersection of any street, road or highway to prevent obstruction of free and clear vision;
 - d. Away from existing roadside obstructions, such as, but not limited to, utility poles, guardrails, bridges, blind spots caused by curves or hills, and other physical limitations; where there are guardrails, mailboxes shall be installed behind the guardrails, projecting enough for the mail carrier to reach the mailbox;
 - e. Away from any location where, by reason of the mailbox's shape, color or position, it may interfere with, obstruct the view of, or be confused with any authorized traffic control sign or device; and
 - f. In such a location that no portion of the roadside face of the mailbox extends over the traveled portion of the highway or the outside edge of the usable shoulder.
- (4) **Mailbox Support Posts; Permissible Mountings.** Mailbox support posts shall be of the following design:
- a. Metal, hollow pipe supports shall be one and one-half (1 1/2") inches in diameter or less.
 - b. Metal channel supports shall weigh less than two (2) pounds per foot.
 - c. Square wood posts shall be no larger than four (4") by (4") inches or less.
 - d. Round wood posts shall be no larger than four (4") inches in diameter.
 - e. Mailbox supports shall be imbedded no more than twenty-four (24") inches into the ground; mailbox supports shall not be imbedded in concrete.
 - f. Mailbox support posts shall be of a size/design that would break off or move out of the way if struck by a vehicle.
 - g. Mailboxes should be sufficiently mounted on a post in such a manner as to minimize the possibility of the mailbox being damaged by flying snow and slush from traffic and plowing activity; an L-shaped mounting is preferred. The post-to-box attachment shall be of sufficient strength to minimize the possibility of the mailbox separating from the mounting post if struck by a vehicle.
 - h. Prior to any digging of postholes, it is the responsibility of the property owner to first call Diggers Hotline to locate any possible underground utilities [800-242-8511].
 - i. Plastic-housed mailboxes may be used provided that the internal mounting post complies with the standards of this Section.
 - j. Pursuant to Sec. 346.41(3), Wis. Stats., only blue reflectors may be attached to any mailbox.
 - k. Newspaper tubes are permitted on the mailbox support post only if they are of a design that will not interfere with the standards of this Section or present a hazard to the public use of the right-of-way.
- (5) **Cluster-Type Mailbox Mountings.** Multiple mailbox installations may be permitted as an alternative mounting system provided permission is received from the Postmaster and the Village of Elk Mound, and the following standards are met:

- a. No more than two (2) mailboxes may be mounted on one support post. A light-weight newspaper box mounted on a mailbox structure will not be counted toward this limit. For a multiple installation of two (2) mailbox posts, support posts shall be spaced a minimum longitudinal distance apart which is equal to three-quarters of the height of the posts in the installation. [Example: Where several two (2) mailbox installations are mounted four (4') feet above the ground on single posts, the posts shall be spaced three (3') feet apart]. The height and other standards of this Section shall be complied with.
 - b. Up to four (4) mailboxes may be co-mounted on two (2) connected supporting posts a minimum of thirty-six (36") inches apart. The height and other standards of this Section shall be complied with.
 - c. Cluster-type or multiple mailbox installations may not originally be placed on a parcel without the express permission of the parcel's owner.
- (d) **Prohibited Mailboxes.** Due to hazards presented by being located in a public right-of-way, nonstandard mailboxes are expressly prohibited. A mailbox installation that does not conform to the standards of this Section is an unauthorized encroachment and the Village may require that the owner remove or modify the nonstandard mailbox. This Section is not intended to and shall not be construed as creating any affirmative duty on the part of the Village of Elk Mound to locate and remove every nonconforming mailbox. Examples of nonstandard mailboxes include, but are not limited to:
- (1) Masonry, concrete or stone columns, standards or landscaping.
 - (2) Receptacles, barrels or milk cans filled with sand, soil or concrete.
 - (3) Metal or wooden posts exceeding the standards specified in this Section.
 - (4) Nonstandard ornamental mountings or posts which present a hazard when located in the right-of-way, such as plow blades, wagon or implement wheels, vehicle parts, comic installations, etc.
 - (5) Railroad ties.
- (e) **Mailboxes Damaged by Village Maintenance Activities.**
- (1) Any mailbox located in a right-of-way potentially may be damaged or destroyed as a result of traffic or Village maintenance activities. Village maintenance activities include, but are not limited to, snow removal, pavement repairs, street cleaning, brush collection, and maintenance/repairs to public utilities.
 - (2) The Village of Elk Mound shall not assume any legal liability regarding any mailbox of any type constructed within the public right-of-way.
 - (3) In the event a mailbox is significantly damaged or destroyed in the course of Village operations, the Village may provide for reimbursement under this Subsection. In the case of alleged damage from Village snow removal activities, payment may only be made for damage resulting from direct contact damage to a mailbox, not from plow-thrown snow or slush; the Village shall not be responsible for pieces of a mailbox which have been damaged due to plow-thrown snow or slush.

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- (4) If the mailbox was not in compliance with the placement and mounting standards of this Section or was improperly maintained, reimbursement shall not be made.
 - (5) If it is alleged that a mailbox has been significantly damaged or destroyed in the course of Village maintenance activities, the Village shall be contacted by the property owner and a Village representative will inspect the mailbox and make a determination regarding reimbursement. This determination shall be final.
 - (6) The Village does not repair or replace damaged mailboxes. The repair or replacement of a mailbox is the responsibility of the property owner. If Village responsibility has been determined and the criteria of this Subsection are met, the Village will provide the property owner with reimbursement in the amount of Fifty Dollars (\$50.00) regardless of whether the mailbox was of standard or customized design. No additional allowance will be made for decorative or customized mailboxes. This is the maximum payment amount and shall apply to damage from all Village maintenance activities and is not limited to direct contact snow removal damage.
- (f) **Variances.** Upon written request, the Village Board may grant a variance on a case-by-case basis to the requirements of this Section provided that unique circumstances exist and such variance does not compromise public safety. Such variance shall be in writing.

Title 6 ► Chapter 3

Driveways; Private Streets

- 6-3-1** Driveway Permit Required
- 6-3-2** Driveway and Culvert Location, Design and Construction Requirements
- 6-3-3** Construction Standards for Private Streets
- 6-3-4** Snow Removal on Private Driveways/Streets

Sec. 6-3-1 Driveway Permit Required.

- (a) **Purpose.** For the safety of the general public, the Village of Elk Mound 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 corporation shall construct, reconstruct, alter or enlarge any private driveway within the limits of the dedicated portion of any public street under the control and jurisdiction of the Village of Elk Mound without first obtaining a driveway permit therefor as provided by this Chapter from the Public Works Department. 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. For bond and insurance requirements, see provisions of Section 6-2-3(g) and (h).
- (c) **Application.**
 - (1) Application for such permit shall be made to the Village Clerk-Treasurer for referral to the Public Works Department and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. The applicant shall pay a fee as prescribed in Section 1-3-1. Upon receipt of the application and the fee if required, unless the proposed private driveway is a part of construction for a building or other structure for which a building permit has been applied for, in which case no additional fee is required, the Public Works Department shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable Village of Elk Mound ordinances.

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- (2) All applications for permits shall be made on a form prescribed by the Village Clerk-Treasurer and be accompanied by a sketch in duplicate showing exact location of any naming:
 - a. Driveway and approaches.
 - b. Property lines.
 - c. Right-of-way lines.
 - d. Intersecting roads, streets or roadways within three hundred (300) feet.
 - e. Width of right-of-way.
 - f. Width and type of road surface.
 - g. Distance from right-of-way line to gasoline pumps and other structures on the site.
 - h. Type of surface and width of driveways and approaches.
 - i. Proposed turning radii.
 - j. Other pertinent information as may be required.
- (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/her 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 of Elk Mound, 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/her successors or assigns, agrees to indemnify and hold harmless the Village of Elk Mound, 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 of Elk Mound does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Village street.

Sec. 6-3-2 Driveway and Culvert Location, Design and Construction Requirements.

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following:
 - (1) **General Design.** Private driveways shall be of such width and so located that all of such driveways and their appurtenances are within the limits of the frontage abutting

- the street of the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the street right-of-way required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the street. Driveway approaches shall be at least ten (10) feet apart except by special permission from the Village Board where special circumstances exist, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place. The minimum width of a residential driveway approach shall be ten (10) feet at the curb line.
- (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 (a)(6).
 - (4) **Drainage.** The surface of the driveway connecting with street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed. No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches, or roadside areas or with any existing structure on the right-of-way.
 - (5) **Reconstruction of Sidewalks and Curb and Gutter.** When the construction of a driveway requires the removal of a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway construction shall include the replacement of such sidewalk areas which are inadequate or which are or may be damaged by means of vehicle travel across the sidewalk. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code of Ordinances insofar as such requirements are applicable, including thickness requirements. Standard thickness of residential driveway approaches will be six (6) inches thick.
 - (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 and/or draining shall be to grades approved by the Public Works Department and, except where highway drainage is by means of curb and gutter,

- water drainage of the area shall be directed away from the street roadbed in a suitable manner.
- b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.
 - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Public Works Department.
- (7) **Relocation of Utilities.** Any costs of relocating utilities shall be the responsibility of the property owner with approval of the Public Works Department 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 paved in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code of Ordinances insofar as such requirements are applicable, including thickness requirements.
- (9) **Special Requirements for Driveways Over 150 Feet in Length; Special Situations.**
- a. In addition to those driveway requirements prescribed herein, private driveways one hundred and fifty (150) feet and over in length, measured from the edge of the traveled surface of the intersecting highway to the structure, shall meet the following standards to permit access to principal buildings by the Fire Department and/or other public safety authorities:
 1. A minimum of a twenty-four (24) foot right-of-way;
 2. A minimum clear-cut width of twenty (20) feet;
 3. A minimum driving surface of sixteen (16) feet;
 4. A minimum height clearance of fifteen (15) feet; and
 5. A minimum width of twenty (20) feet for all aprons and approaches.
 - b. Driveways of one hundred fifty (150) feet and over accessing parcels on which there are no structural improvements are exempt from the requirements of this Subsection. However, if a structure is subsequently built, all standards and requirements for driveways and culverts prescribed by this Section shall then be fully complied with.
 - c. The Public Works Department, based on recommendations of the Fire Department, may require additional clear-cut width clearances and extra driving surface widths to alleviate concerns caused by sharp curves, steep inclines or other situations which could interfere with emergency vehicles properly and safely utilizing the driveway.
- (10) **Variations.** 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 commercial or industrial establishments:
- (1) **Width of Drive.** The maximum permitted width of a commercial or industrial driveway approach shall be thirty-five (35) feet at the curb line, except as increased by permissible radii. In instances where the unique 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 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/her property.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:
- (1) **Width.** Unless special permission is first received from the Village Board, a residential single-type driveway shall be no greater than twenty-four (24) feet wide or less than ten (10) feet wide at the outer or street edge of the sidewalk; residential double-type driveways shall be no greater than twenty-four (24) feet wide at the curb line and eighteen (18) feet wide at the outer or street edge of the sidewalk.
 - (2) **Angular Placement.** The center line of the drive may be parallel to the property line of the lot where access is required or at right angles to the curb line.
- (d) **Appeal from Permit Refusal.** Any person feeling himself/herself aggrieved by the refusal of the Public Works Department or Village Clerk-Treasurer to issue a permit for a private driveway may appeal such refusal to the Village Board within fourteen (14) days after such refusal to issue such permit is made.
- (e) **Prohibited Driveways.**
- (1) No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Village of Elk Mound 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 thirty-five (35) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or

gress 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 or pedestrian path located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway. Whenever possible, the driveway area located within the right-of-way area shall consist of at least four (4) feet of flat surface area from the pavement edge.
 - (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) **Culvert Requirement.** The Village Board may require the property owner to provide for adequate surface water drainage along the street, and the property owner shall provide any necessary culvert pipe at his/her expense.
 - (2) **Culvert Permit.**
 - a. No person shall lay, remove, replace or repair any culvert within the Village of Elk Mound unless he/she is under contract with the Village to do such work or has obtained a permit therefor from the Public Works Department at least three (3) days before work is undertaken. The Public Works Department shall determine the diameter of the culvert to be installed which shall not be less than twelve (12) inches and shall approve of the laying of said culvert so as to provide proper drainage.
 - b. No person, not under contract to the Village of Elk Mound, shall lay, remove, replace or repair any culvert until a permit has been obtained from the Public Works Department at least three (3) days before work is undertaken. The fee for such permit shall be as prescribed in Section 1-3-1. The Public Works Department shall view the site for installation of the culvert and determine the position and diameter of the culvert necessary to provide adequate drainage.
 - (3) **Existing Driveway Situations.** The owner of a driveway existing at the time this Section originally became effective may be required to install a culvert if such existing driveway shall impede the flow of surface waters. The Public Works Department shall advise the Village Board of any driveway which intersects with a public street that impedes the flow of surface water, and the Village Board shall order

the owner thereof to install a proper culvert as directed by the Public Works Department. The cost of such installation shall be borne by the owner. If the owner refuses or neglects to install a culvert, the Village shall, after notice to the owner, proceed to make such installation and charge the cost therefor to the owner. If such costs are not paid by November 1st, the Village Clerk-Treasurer shall place the charges on the tax roll in the same manner as a special charge to be collected with real estate taxes.

- (4) **Size.** Culverts shall be installed prior to construction work being commenced on the property served. No pipe smaller than twelve (12) inches in diameter (or equivalent elliptical or arch pipe) will be allowed. All culverts shall be constructed of galvanized steel or reinforced concrete, and shall be made of new manufacture, unless specifically excepted by the Public Works Department or Village Engineer in the case of quality used culverts. PVC plastic culverts may only be used in situations if the Public Works Department or Village Engineer determines there is adequate cover.
- (5) **Gauge.** The minimum wall thickness for the galvanized steel pipe culverts shall be in accordance with the following:

Pipe Diameter	Gauge
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:

Height of Cover (in feet)	Class of Pipe
0-2	IV
2-3	III
3-6	II

- (6) **Drainage.** The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
- (7) **Endwalls.** Culverts shall be provided with earthen, concrete or metal apron endwalls as directed by the Village Engineer or Public Works Department.
- (8) **Backfill Material.** Material used for backfill shall be of quantity acceptable to the Village Engineer or Public Works Department 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.

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- (9) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Village Engineer or Public Works Department.
- (10) **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).
- (11) **Cost.** The property owner shall install the culvert and be responsible for the cost thereof. The property owner shall keep his/her culverts unobstructed and clean.
- (12) **Appeal.** Persons may request a variance from the culvert requirements of this Section by filing a written appeals request with the Village Clerk-Treasurer, who shall place the matter as an agenda item for the Village Board's next meeting. The Village Board may only waive the requirement for a culvert upon a finding that unique physical characteristics of the location in question render a culvert unnecessary. The Village Engineer or Public Works Department may be asked to render an opinion on the request.

Sec. 6-3-3 Construction Standards for Private Streets.

- (a) **Standards.** All private streets shall be constructed in accordance with the specifications and requirements of Title 14 of the Village of Elk Mound Code of Ordinances for public roads.
- (b) **Drainage.** Street ditch construction along private streets shall be required in those areas where storm water runoff would otherwise be forced onto the traveled street's surface due to the topography. All drainage easements necessary to construct these ditches shall be previously provided by the property owner.
- (c) **Maintenance Costs.** All costs necessary for the continued maintenance of the private street to conform to these requirements for the safe passage of emergency vehicles shall be at the property owner's expense.
- (d) **Non-Compliance.** If inspection of the private street by the Fire Chief, Building Inspector, Public Works Department, or other Village Board representative indicates maintenance is needed, a letter shall be sent to the owner(s) of the property requiring the maintenance. The property owner shall have thirty (30) days to comply. If the property owner does not comply, the work shall be ordered done by the Village Board and costs billed to the property owner. If the property owner does not pay the bill, said costs shall be assessed to the property.

Sec. 6-3-4 Snow Removal on Private Driveways/Streets.

Snow removal for all private driveways and streets shall be addressed by the property owner to allow for emergency services even if the house is not occupied during the winter.

Title 6 ▶ Chapter 4

Trees and Shrubs

- 6-4-1 Statement of Policy and Applicability of Chapter
- 6-4-2 Definitions
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- 6-4-5 Abatement of Tree Disease Nuisances
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Sec. 6-4-1 Statement of Policy and Applicability of Chapter.

- (a) **Intent and Purpose.** It is the policy of the Village of Elk Mound 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 of Elk Mound; 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 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.

Sec. 6-4-2 Definitions.

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

- (a) **Curtilage.** The area immediately surrounding a dwelling but excluding the "fields beyond."
- (b) **Person.** Person, firm, association or corporation.
- (c) **Public Areas.** All public parks and other lands owned, controlled or leased by the Village of Elk Mound, including terrace areas.
- (d) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.
- (e) **Public Nuisance.** In addition to the definition in Section 6-4-5(b), means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.
- (f) **Boulevard or Terrace Areas.** Means the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four (4) feet from the curb line shall be deemed to be a terrace for the purpose of this Chapter. "Boulevard" shall have the same meaning as "terrace." Where there are only sidewalks, the area four (4) feet from the curb shall be deemed terrace 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) **Forester, Village.** The Village employee or person designated by the Village Board as authorized to carry out provisions of this Chapter. 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 duties and exercise the powers imposed on the Village Board by this Chapter. Such duties will be assigned to a member of the Public Works Department unless otherwise designated by the Village Board.

Sec. 6-4-3 Authority of Village Forester.

- (a) **General Authority of Village Forester.** The Village Forester shall have the authority to plant, trim, treat, preserve, and remove public trees and shrubs as may be necessary to ensure the safety of public streets or grounds, and to protect public sidewalks, streets, sewers and mains from damage.

- (b) **Authority to Enter Private Premises.** The Village Forester or his/her authorized representative may enter upon the curtilage of private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter.

Sec. 6-4-4 Interference with the Village Forester Prohibited.

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

Sec. 6-4-5 Abatement of Tree Disease Nuisances.

- (a) **Tree Diseases a Public Nuisance.** Whereas the Village Board, upon the recommendation of the Village Forester or other appropriate expert, has determined that there are many trees growing on public and private premises within the Village of Elk Mound, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the Village, and that the health and life of such trees is threatened by fatal diseases such as, but not limited to, oak wilt disease, Dutch Elm disease [which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.)] and emerald ash borer disease, the Village Board hereby declares its intention to control and prevent the spread of such disease, and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease, oak wilt disease and emerald ash borer disease to be public nuisances.
- (b) **Definitions.** As used in this Section, unless otherwise clearly indicated by the context:
- (1) **Public Nuisance.**
 - a. Fatal or deleterious tree diseases.
 - b. Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.); Dutch Elm disease and other insect pests and vectors which carry tree diseases.
 - c. Any living or standing tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.), oak wilt disease, emerald ash borer insects, or other insect pests and vectors.
 - 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 or disease 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, terrace, park or other public or private place, including the terrace strip between curb and lot line.
- f. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
- (2) **Public property.** Owned or controlled by the Village of Elk Mound, 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.** Person, firm or corporation.
- (c) **Inspection.**
- (1) **Inspection Responsibility.** The Village Forester may inspect or cause to be inspected all public premises and places and the curtilage of private premises within the Village of Elk Mound to determine whether any public nuisance exists thereon. The Forester shall also inspect or cause the inspection of any public tree reported or suspected to be infested with the Dutch Elm, oak wilt, emerald ash borer disease or other fatal tree disease, or any bark bearing materials reported or suspected to be infested with disease.
- (2) **Testing.** Whenever necessary to determine the existence of a deleterious tree disease or insects 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 Village Forester who shall forward them to the Wisconsin Department of Agriculture, Trade and Consumer Relations (WisDATCP) for analysis to determine the presence of such nuisances.
- (3) **Right to Enter Premises.** The Forester and his/her agents or employees shall have authority to enter upon the curtilage of private premises at reasonable times for the purpose of carrying out any of the provisions of this Chapter.
- (d) **Abatement of Nuisances on Public Property; Duty of Forester.**
- (1) **Abatement of Nuisances.** Following authorization by the Village Board, the Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this Section by trimming, treating, removal, burning or by other means which he/she determines to be necessary to prevent as fully as possible the spread of deleterious tree diseases or the insect pests or vectors known to carry such diseases. Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the Village of Elk Mound, the Forester shall immediately abate or cause the abatement of such nuisance on public property in such manner as to destroy or prevent as fully as possible the spread of deleterious tree diseases, or the insect pests or vectors known to carry such disease fungus.
- (2) **Procedures – Tree Nuisances on Private Property.**
- a. When the Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, the Forester shall immediately serve or cause to be served personally or by certified mail upon the owner of such

property, if the owner can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the 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 posting or publication in a newspaper of general circulation in the Village of Elk Mound.

- b. If, after hearing held pursuant to this Subsection, it shall be determined by the Village Board that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five (5) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost thereof to be imposed as a special charge against the property in accordance with the procedures provided in this Section. The Forester may extend the time allowed the property owner for abatement work but not to exceed ten (10) additional days.

(e) **Treating.**

- (1) **Determination.** 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 insects, the Forester may cause all trees within a one thousand (1,000) foot radius thereto to be treated with an effective disease destroying concentrate or other insecticide, following prior authorization by the Village Board.
- (2) **Notice.** In order to facilitate the work and minimize the inconvenience to the public of any treatment operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements, website notice 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 treated at least twenty-four (24) hours in advance of treatment. When any residue or concentrate from municipal treatment operations can be expected to be deposited on any public street, the Forester shall also notify the Village office which shall direct necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices may be posted in each block of any affected street at least twenty-four (24) hours in advance of treatment operations.
- (3) **Liability Limits.** 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 nearby vehicle caused by such treatment operations.

- (4) **Private Property Situations.** When trees on private property are to be treated, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (e)(2) above.

Sec. 6-4-6 Assessment of Costs of Abatement.

- (a) **Public Property; Terrace Areas.** Except as provided herein, the cost of abating any public nuisance or treating any diseased 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 of Elk Mound. Exception: The abating of a public nuisance or treating trees or wood located in the terrace strip between the lot line and the curb shall be considered work done on private property; the cost thereof shall be assigned to the adjacent property owner.
- (b) **Private Property.** The cost of abating a public nuisance or treating diseased trees located on private premises when done at the direction and under the supervision of the Forester shall be assessed as a special charge to the property on which such nuisance or diseased tree or wood is located as follows:
 - (1) **Accounting.** The Forester shall keep an account of the cost of such work or treatment 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 1st of each year.
 - (2) **Hearing.** Upon receiving the Forester's report, the Village Board, or a designated standing committee thereof, shall hold a public hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. An exception is if a similar hearing was conducted earlier. Each property owner shall be notified of the amount proposed to be levied as a special charge against his/her premises and the work for which such special charge is being made.
 - (3) **Village Board Determination.** After such hearing, the Village Board, or a designated standing committee thereof, shall affirm, modify and affirm or disapprove such special charges by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, special charges made thereby shall be deemed final.
 - (4) **Property Statements.** The Village Clerk-Treasurer shall mail notice of the amount of such final special charge to each owner of property assessed at his/her last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such special charge will be entered on the tax roll 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 special charge.
 - (5) **Police Power Special Charges.** The Village of Elk Mound hereby declares that, in assigning special charges 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.

- (6) **Special Charge Situations.** When abating tree nuisances on a private parcel or small number of private parcels, or on the terrace area fronting a private parcel, the cost of the abatement work shall be charged against the property as a special charge pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-4-7 Planting of Trees and Shrubs on Public Property; Landmark/Heritage Trees.

(a) Purpose; Permit Requirements.

- (1) **Generally.** The Village Board hereby states its determination that the planting, care and protection of public trees within the Village of Elk Mound 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.
- (2) **Permit Required for Planting on Public Property.** No person, except upon the issuance of a permit from the Village, shall plant, transplant, move, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on a public tree or shrub in the Village of Elk Mound, or cause such act to be done by others, without first getting a written permit for such work from the Village Forester or Village Clerk-Treasurer as herein provided. Other instances are specified in this Chapter where a permit is required.
- (3) **Exemptions.** No permit shall be required to cultivate, fertilize, perform minor cutting or pruning or watering of public trees or shrubs, including those on a terrace area.
- (4) **Requirements and Conditions of Permits.** If the Village 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 sidewalks, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological needs of the species or variety of trees or shrub, he/she shall issue a permit to the applicant upon presentation of the receipt of the Village Clerk-Treasurer showing payment of the required fee. As a condition of granting any permit to remove a public tree or shrub, the Village Forester or designee may require that the permittee plant one (1) or more trees or shrubs in place of the one removed, and no permittee under such a permit shall fail, refuse or neglect to plant trees or shrubs of the type, size and location specified in his/her permit.
- (5) **Form, Expiration and Inspection.** The application for a permit shall include a description of the work to be done and shall specify the species or variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work done

under such permit must be performed in strict accordance with the terms thereof and the provisions of this Chapter. Permits issued under this Chapter shall expire six (6) months after date of issue.

- (6) **Fee.** There shall be no fee for such a permit.
 - (7) **Permits to Public Utilities.** Whenever a permit is issued under this Chapter to a public utility to move, trim, prune, cut, disturb, alter or do surgery on any public tree or shrub, the Village Forester shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit, and the expense of such inspection or supervision shall be charged to the utility.
 - (8) **House Moving Permits.** No person shall move any building, structure or object exceeding thirteen (13) feet in height or width upon, over or along any public right-of-way or other public place where trees may be damaged or disturbed without first obtaining a written permit from the Village Clerk-Treasurer pursuant to Section 15-1-12. The Village Clerk-Treasurer may require the applicant to furnish a bond or cash deposit to cover the cost of repairing or replacing any public trees or shrubs which are injured as a result of the moving operations, specify the route to be taken and impose any other conditions reasonably necessary for the protection of nearby public trees from injury.
- (b) **Tree Planting Program.** The Village Forester shall recommend to the Village Board a program for tree planting, care and protection for public parks, properties and terraces. The Village Board shall also encourage the planting, care and protection of trees and shrubs on private premises within the Village of Elk Mound.
- (c) **Prohibited Tree Species.**
- (1) **Cottonwood and Box Elder Trees Prohibited.** No person shall plant within the Village of Elk Mound 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 nuisance. Any person planting any such trees on his/her 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 Village Forester, the Village shall cause the removal of such tree and report the full cost thereof to the Village Clerk-Treasurer who shall place such charge upon the next tax roll as a special charge against the premises.
 - (2) **Planting of Certain Trees Restricted.** Except in public parks, no person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Weeping Willow, Evergreen, Lombardy Poplar, Silver Maple, or any fruit, nut or fir/pine tree in or upon any public street, parkway, terrace or other public place within the Village of Elk Mound unless he/she shall first secure written permission from the Village Forester, who shall not approve any such planting if, in his/her 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.

(d) **Planting; Location.**

(1) **Planting Standards.**

- a. 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 Village Forester. New trees must be single stemmed with a minimum diameter of one and one-quarter (1-1/4) inches measured at six (6) inches above ground level.
- b. 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 high 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 a year.
- c. 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.
- d. 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.

(2) **Spacing.** The spacing of right-of-way trees will be in accordance with the three species size classes listed in this Chapter. No trees may be planted closer together than the following, except in special plantings designed by a landscape architect and recommended by the Village Forester, with final approval of the Village Board:

- a. Small trees: Thirty (30) feet.
- b. Medium trees: Forty (40) feet.
- c. Large trees: Fifty (50) feet.

(3) **Distance Between Curbs and Sidewalks.** 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 four (4) 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.

(4) **Terrace Planting Standards.** Trees may *not* be planted in the terrace closer than:

- a. Fifteen (15) feet to a driveway or alley.
- b. Six (6) feet to a fire hydrant, water stop box or gas shut-off. If possible, allow more distance than six (6) feet.
- c. Twenty-five (25) feet to the intersection of two (2) streets from either corner measured on the property line.
- d. 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.]

- (5) **Stump Removal.** 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.
- (6) **Underground Utilities Determination.** The property owner has the responsibility to locate underground utilities before digging by contacting Digger's Hotline.
- (7) **Evergreens.** Evergreen trees shall not be planted in a terrace area.
- (e) **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 Village of Elk Mound may remove such trees, plants or shrubs and assess the costs thereof to the owner as a special charge pursuant to Sec. 66.0627, Wis. Stats.
- (f) **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 Village Forester.
- (g) **Acceptable Trees.** Certain plants are more suited than others to provide these benefits under various landscape conditions. The lists following provide a range of sizes and tree variety; they are not inclusive of *all* the better plants but are representative of them.
 - (1) Alder, Black (*Alnus glutinosa*)
 - (2) Alder, Speckled (*Alnus rugosa*)
 - (3) Birch, River (*Betula nigra*), especially Heritage
 - (4) Cherry, Sargent (*Prunus sargentii*)
 - (5) Chokecherry, Schubert (*Prunus virginiana* "Schubertii")
 - (6) Corktree, Amur (*Phellodendron amurense*)
 - (7) Corktree, Sakhalin (*Phellodendron sakhalinense*)
 - (8) Dogwood, Kousa (*Cornus kousa*)
 - (9) Dogwood, Correlancherry (*Cornus mas*)
 - (10) Elm, Chinese (*Ulmus parvifolia*; *not* Siberian elm)
 - (11) Ginkgo (*Ginkgo biloba*), male clones only
 - (12) Hackberry (*Celtis occidentalis*), esp. Chicagoland, Prairie Pride and Windy City
 - (13) Honeylocust, Thornless Common (*Gleditsia triacanthos inermis*), many cultivars available; vastly overused; would discourage continued planting
 - (14) Hornbeam, American (*Carpinus caroliniana*)
 - (15) Hornbeam, European (*Carpinus betulus*)
 - (16) Hophornbeam, American (*Ostrya virginiana*)
 - (17) Katsuratree (*Cercidiphyllum japonicum*)
 - (18) Linden, Crimean (*Tilia X euchlora*), esp.

- (19) Linden, Littleleaf (*Tilia cordata*), esp. Glenleven, Greenspire and June Bride
 - (20) Linden, Silver (*Tilia tomentosa*)
 - (21) Maple, Hedge (*Acer campestre*)
 - (22) Maple, Paperbark (*Acer griseum*)
 - (23) Maple, Three-flower (*Acer triflorum*)
 - (24) Maple, Miyabe (*Acer miyabei*)
 - (25) Maple, Norway (*Acer platanoides*), esp. Cleveland, Emerald Queen, Schwedler, Summershade and Superform. May be too big for many areas; too shady, often preventing lawn growth
 - (26) Maple, Red (*Acer rubrum*), esp. Autumn Blaze, Marmo, Morgan, Northwood, October Glory and Red Sunset
 - (27) Maple, Sycamore (*Acer pseudoplatanus*)
 - (28) Maple, Tartarian (*Acer tataricum*)
 - (29) Maple, Purpleblow (*Acer truncatum*)
 - (30) Oak, Bur (*Quercus macrocarpa*)
 - (31) Oak, English (*Quercus robur*)
 - (32) Oak, Pin
 - (33) Oak, Red (*Quercus rubra* or *Q. borealis*)
 - (34) Pear, Callery (*Pyrus calleryana*), esp. Chanticleer and Fauriei [cultivars such as Bradford and Aristocrat are proving to be landscape liabilities as they age beyond fifteen (15) years]
- (h) **Landmark/Heritage Trees.** The Village Forester shall have as one of his/her duties the location, selection, and identification of any trees which qualify as "Landmark/Heritage Trees." Landmark Trees may be either public or privately owned trees, and not be removed without a permit under this Chapter. A tree may qualify as a Landmark Tree if it meets one (1) or more of the following criteria:
- (1) Species rarity.
 - (2) One hundred (100) years of age or older.
 - (3) Association with a significant historical event or person.
 - (4) Interesting or significant abnormality.
 - (5) Meets Landmark Tree or Historic Tree criteria established by the State of Wisconsin.
 - (6) Has a diameter twenty-six (26) inches or greater.

Sec. 6-4-8 Trimming.

- (a) **General Standards - Private Trees Adjacent to Public Property.** Any person growing a tree, plant or shrub on any private property abutting on a public street, terrace or public property shall, at his/her expense:
- (1) Trim them so as not to be a hazard to persons using the streets/sidewalks or to interfere with the proper lighting of the streets.

- (2) Treat or remove any tree, plant or shrub which the Village Forester shall determine is diseased or insect-ridden or a hazard to persons using the streets/sidewalks/parks, at the property owner's cost.
 - (3) Remove and refrain from planting any tree, plant or shrub designated by the Village or the Wisconsin Department of Agriculture, Trade and Consumer Protection (WisDATCP) and published in its regulations to be a host or carrier of a dangerous plant disease or insect pest, at the property owner's cost.
- (b) **Terrace Work by Village.** Private property owners may request to have any terrace or utility easement tree, plant or shrub treated, trimmed or removed by the Village of Elk Mound and pay for such service at the rates established by the Village Board.
- (c) **Trimming.**
- (1) Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed by their owner (or adjacent property owner) or the Village, as the case may be, so that the lowest branches projecting over the public street or alley provide a clearance of not less than fourteen (14) feet. The Village Forester may waive the provisions of this Section for newly planted trees if he/she determines that they do not interfere with public travel, obstruct the light of any street light or endanger public safety.
 - (2) The necessity of the pruning may be determined by the Village Forester.
 - (3) Clearance from sidewalk to lower branches shall not be less than seven (7) feet. All trees standing upon private property in the Village, the branches of which extend over the line of the sidewalk, 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.
 - (4) It shall be avoided as a normal practice for any person, firm or Village department to top any public tree. Trees severely damaged by storms or other causes where other pruning practices are impractical may be exempted from this Chapter if so determined first by the Village Forester. Trimming or pruning of more than one-half (1/2) of the crown shall be considered to be a major alteration and shall require authorization from the Village Forester.
- (d) **Tree Ownership Disputes.** When ownership of a tree is disputed, the property owner must establish where the property line is before any work commences.
- (e) **Removal Standards - Terrace Trees.** In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased.

Sec. 6-4-9 Trees and Shrubbery Obstructing View at Intersection or View of Traffic Signs.

(a) **Vision Clearance at Intersections.**

- (1) 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 of Elk Mound any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (2) 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 of Elk Mound. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.

(b) **Abatement.** 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 Village 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 Village 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 charge upon the property upon which or in front of which such tree or shrub stands.

(c) **Penalties.** Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the Village Forester as specified in Subsection (c) above shall also, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-6 of this Code of Ordinances.

Sec. 6-4-10 Prohibited Acts.

- (a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a public private tree or shrub, or without written permits from the Village 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 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.
 - (7) Remove any Landmark/Heritage tree without a permit, without cause demonstrated for removal; following permission from the Village Forester, a replacement tree with a minimum diameter of two (2) inches shall be planted.
- (b) **Excavations.** All trees on any terrace, 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 Village Forester.
- (c) **Interference With Forester.** No person shall:
- (1) Interfere with or prevent any acts of the Village Forester, his/her agents or employees while they are engaged in the performance of duties imposed by this Chapter.
 - (2) Refuse to permit the Forester or his/her duly authorized representative to enter upon his/her premises at reasonable times to exercise the duties imposed by this Chapter.
- (d) **Refusal to Abate Nuisance.** No person shall permit any public nuisance to remain on any premises owned or controlled by him/her when ordered by the Forester to abate such nuisance.
- (e) **Clear Cutting Existing Trees.** New property owners as of the time of adoption of this Chapter shall not clear cut trees on private property unless a replacement tree two (2) inches diameter or greater at breast height is planted, as determined by the Village Forester. If a removed tree cannot be replaced on private property, a replacement tree shall be planted on public property as directed by the Village Forester. The private property owner shall pay the cost of replacement trees.

Sec. 6-4-11 Appeal from Determinations or Orders.

Any person who receives a determination or order under this Chapter from the Village Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Title 4 of this Code of Ordinances and Chapter 68, Wis. Stats., to the 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 Village Board shall file its written decision with the Village Clerk-Treasurer.

Sec. 6-4-12 Adoption of State Statutes.

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

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

