

CHAPTER 6. PUBLIC WORKS

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OFFICIAL MAP AND GRADES

SEC. 6.01 OFFICIAL MAP.

(a) **Intent.** It is the intent of the Common Council to establish an official map:

- (1) For the purpose of serving and promoting the public health, safety, convenience, economy, orderliness and general welfare of the community;
- (2) To further the orderly layout and use of land;
- (3) To stabilize the location of real property boundary lines;
- (4) To insure proper legal descriptions and proper monumenting of land;
- (5) To facilitate adequate provision for transportation, parkways, parks, playgrounds, storm water drainage and lands required for other public use; and
- (6) To facilitate the further subdivision of larger tracts into smaller parcels of land.

(b) **Official Map.** The official map, prepared in accordance with Sec. 62.23(6), Wis. Stats., shall show the location and extent of all platted and existing streets, highways, waterways, parkways, parks and playgrounds within the City of Oak Creek as heretofore laid out, adopted and established by law. There is hereby established, as the official map of the City, the maps which are incorporated by reference and made a part of this Section bearing the date of May, 1967. This map is hereby designated as the "Official Map of the City of Oak Creek," and all notations, references and other information shown thereon shall be as much a part of this Section as though the matters and information thereon were fully described herein.

(c) **Changes and Additions.**

- (1) The Common Council may change or add to the official map so as to establish the exterior lines of, widen, narrow, extend or close any platted, existing, proposed or planned streets, highways, waterways, parkways, parks or playgrounds.
- (2) The Common Council shall refer any change or addition to the official map to the City Plan Commission for review and report thereon prior to adoption. The City Plan Commission shall report their recommendation to the Council within sixty (60) days.
- (3) A public hearing for parties in interest and citizens before the Common Council shall be required before any changes or additions to the official map are effective. Notice of the public hearing shall be published as a Class 2 notice pursuant to Ch. 985, Wis. Stats.
- (4) Changes and additions made by duly approved subdivision plats shall not require the

public hearing if the changes or additions do not affect any land outside the area being platted. Changes requested by a property owner shall be accompanied by a filing fee as set forth in Section 3.40 of this Municipal Code.

(d) **Official Amendments.** Ordinance numbers 315, 350, 361, 376, 377, 378, 390, 399, 405, 417, 420, 433, 456, 466, 467, 473, 514, 559, 572, 608, 609, 643, 645, 653, 656, 664, 666, 703, 704, 705, 708, 714, 715, 716, 719, 722, 737, 738, 757, 760, 762, 763, 764, 765, 766, 773, 806, 807, 808, 809, 810, 811, 813, 819, 820, 833, 843, 856, 863, 864, 887, 888, 900, 901, 902, 903, 909, 910, 937, 938, 939, 946, 951, 952, 966, 983, 984, 985, 986, 987, 988, 989, 991, 1007, 1008, 1020, 1021, 1027, 1028, 1029, 1042, 1048, 1061, 1065, 1075, 1076, 1105, 1106, 1153, 1183, 1186, 1192, 1227, 1228, 1231, 1240, 1253, 1254, 1259, 1282, 1288, 1293, 1297, 1300, 1312, 1354, 1387, 1391, 1398, 1399, 1444, 1459, 1475, 1479, 1480, 1486, 1488, 1489, 1494, 1496, 1498, 1513, 1532, 1582, 1584, 1588, 1591, 1595, 1612, 1613, 1620, 1621, 1626, 1631, 1642, 1650, 1658, 1668, 1669, 1703, 1705, 1718, 1719, 1729, 1731, 1735, 1745, 1746, 1757, 1766, 1774, 1783, 1785, 1792, 1795, 1797, 1803, 1813, 1815, 1849, 1850, 1864, 1866, 1869, 1880, 1892, 1893, 1917, 1943, 1953, 1957, 1968, 1972, 1974, 1978, 1985, 1986, 2023, 2037, 2041, 2066, 2079, 2081, 2098, 2104, 2109, 2116, 2163, 2164, 2165, 2197, 2207, 2237, 2255, 2265, 2286, 2324, 2327, 2337, 2349, 2385, 2516, 2543, 2584, 2596, 2610, 2640, 2650, 2664, 2671, 2687, 2697, 2771, 2825, 2868, 2882, 2934, 2951, 2998, 3031, 3042, 3078, 3091.

(e) **Subdivision Plats and Certified Survey Maps.** Subdivision plats and certified survey maps submitted to the Council for approval shall provide for transportation facilities, parkways, parks, playgrounds, storm water drainage and such lands required for other public purposes in conformity with the official map of the City of Oak Creek.

(f) **Building Permits.**

- (1) For the purpose of preserving the integrity of the official map, a building permit shall be required for any structure or part thereof that shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered. No permit shall hereafter be issued for any building in the bed of any existing or proposed street, highway, waterway, parkway, or other public lands shown on the official map, nor within the required setback from any proposed street, highway, waterway, parkway or other public lands so shown. No permit for the erection of any

building shall be issued unless a street, highway, or parkway giving access to such proposed structure has been duly placed on this map.

- (2) The Building Commissioner shall require each applicant for a building permit to submit a plan, prepared and certified by a registered land surveyor, showing accurately the location of any proposed building with reference to any existing or proposed street, highway, waterway, or parkway, shown on the official map.
- (g) **Municipal Improvements.** No public sewer or other municipal street utility or improvement shall be constructed in any street, highway or parkway within the City until such street, highway or parkway is duly placed on the official map, unless said public improvement is placed in an authorized and approved public utility easement or pursuant to a development agreement approved by the Common Council.
- (h) **Appeals.** The Zoning Board of Appeals may review any administrative decision of the Building Commissioner to deny a permit for the erection of a structure under this Section and to grant relief from the requirements of this Section under the provisions of Sec. 62.23(6)(d), (f) and (g), Wis. Stats.
- (i) **Certified Copy of Map.** There shall be a certified copy of the official map. The certified copy shall be kept in the office of the City Clerk, and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the official map described in and accompanying this Section and shall show the date of adoption of this Section (June 30, 1967) and shall be signed by the Mayor and countersigned by the City Clerk. Thereafter no change or addition to such official map shall become effective until it shall have been indicated by the appropriate notation on the aforesaid certified copy of the official map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Mayor and countersigned by the City Clerk.
- (j) **Enforcement.** The Building Commissioner shall enforce this Section.
- (k) **Damages for Acquisition.** No damages shall be allowed for the acquisition by any governmental agency, for street, highway and parkway purposes, of any building erected in violation of this Section.

SEC. 6.02 ESTABLISHMENT OF GRADES.

- (a) **Grades to be Established.** The grade of all streets, alleys and sidewalks shall be established by ordinance by the Common Council. The ordinance

shall be submitted upon the recommendation of the City Engineer.

- (b) **Authorized Grade Changes.** The Common Council may change, alter or reestablish the grade on any street, alley, sidewalk or public lands. No change, alteration or reestablishment of grade shall be made except as directed or authorized by the Common Council.
- (c) **Alteration of Grade Prohibited.** No person shall alter the grade of any street, alley, sidewalk or public land, or any part thereof, unless authorized or instructed to do so by ordinance of the Common Council.
- (d) **Municipal Improvements.** No street, alley, sidewalk or public lands shall be improved until the grade thereof is established and recorded in the manner herein set forth.
- (e) **Recorded Copy Available.** A recorded copy of all established grades shall be kept in the office of the City Clerk, and shall be available for inspection by any interested person, on request, during regular office hours.
- (f) **Ordinances Establishing Street Grades.** The following ordinances establish street grades and are not repealed by the adoption of this Code of Ordinances: 11, 12, 52, 133, 163, 184, 185, 188, 199, 312, 313, 316, 364, 367, 368, 373, 400, 407, 408, 435, 454, 455, 459, 468, 508, 509.

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

STREETS AND SIDEWALKS

SEC. 6.20 REMOVAL OF RUBBISH, DIRT, GRASS AND LEAVES OR YARD WASTE.

- (a) No owner or occupant shall allow the street, alley or sidewalk pavements abutting on his premises to be littered with rubbish, dirt, grass, leaves or yard waste as defined in Section 8.40. If such owner or occupant shall refuse or fail to remove any such rubbish, dirt, grass, leaves or yard waste as defined in Section 8.40 when notified to do so by the Common Council or designee, the City may cause the same to be done and the cost thereof shall be reported to the City Clerk who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.60(16), Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

Ordinance No. 1984, A 03/16/99

SEC. 6.21 CONSTRUCTION AND REPAIR OF SIDEWALKS.

- (a) **Sidewalk Construction and Repair.** Sec. 66.615, Wis. Stats., shall apply to sidewalk construction and repair provided the initial cost of construction shall be borne by the abutting property and the cost of repair shall be as provided in Sec. 6.21(f)(1)b.
- (b) **Sidewalk Permit Required.** No person shall hereafter install, remove, replace or repair any public sidewalk within the City unless he is under contract with the City to do such work or has obtained a permit therefore from the City Engineer, at least three (3) business days before work is proposed to be undertaken.
- (c) **Illegal Sidewalks.** No sidewalk 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.
- (d) **Design of Sidewalks.** The design and construction of sidewalks shall conform with the standards outlined in the City of Oak Creek Engineering Design Manual, the City of Oak Creek construction standards, and by other criteria established by the City Engineer.
- (e) **Criteria for Inspection and Repair of Public Sidewalks.**
- (1) **Order to Repair.** The City Engineer will order property owners abutting public sidewalks to repair or replace sections of sidewalk where it is determined that any of the following conditions are present:
- a. An abrupt transverse elevation difference, greater than three-quarters of one inch

(3/4"), between adjacent sidewalk squares.

- b. A transverse pitch greater than one inch per foot (1":1').
- c. A difference in longitudinal pitch greater than one inch per foot (1":1') as compared to the plan grade of the sidewalk.
- d. Existence of cracking and/or deterioration which has resulted in:
1. A crack or joint greater than three-quarters of an inch (3/4") wide.
 2. An abrupt elevation difference, greater than three-quarters of one inch (3/4"), along a longitudinal or transverse crack or cracks.
 3. Loose or spalled concrete, which has resulted in surface irregularities greater than three-quarters of an inch (3/4") depth relative to the sidewalk surface.
 4. A sidewalk square with a transverse crack within one (1) foot of the sidewalk square having any of the above characteristics.
- e. Underground vault covers and frames, ground level surface accesses, drainage grates, window well grates and similar fixtures:
1. Which are cracked or broken in any manner.
 2. Which are rusted through in any place.
 3. Where the fixture creates an abrupt change in elevation greater than three-quarters of one inch (3/4") with the adjacent sidewalk.
- (2) **Temporary Repairs.** Materials such as crack fillers, wedges of any type, surface treatments, or applications of other material of any nature constitute the temporary treatment of a sidewalk condition addressed above, and are not authorized or permissible as a permanent repair. Mudjacking or patching with concrete or epoxy material may be used only upon the prior approval of the City Engineer.
- (f) **Notice to Property Owners.**
- (1) Property owners are responsible for the repair and/or replacement of the sidewalk fronting their property in accordance with Sec. 66.615, Wis. Stats., and must comply with City specifications for construction. Sidewalks identified for repair will be marked with a paint spot. Property owners will receive preliminary notice from the City that the sidewalk section marked must be repaired and/or replaced. There are two (2) al-

ternatives for making the necessary repair and/or replacements:

- a. Property owners may make arrangements to have the work performed by a private contractor. The contractor or property owner must obtain a permit from the Engineering Department prior to performing the work.
- b. The City will replace a defective sidewalk and the cost will be billed to the property owners. The full assessment for concrete walk removal and replacement shall amount to one hundred percent (100%) of the construction costs plus ten percent (10%) of construction costs for engineering and administration. The full assessment shall apply if an existing walk is replaced after fifteen (15) years or more of service. If a walk is replaced after one to five (1-5) years of its projected fifteen (15) year life, there will be no assessment to property owners. If a sidewalk is replaced after six to fifteen (6-15) years of its projected fifteen (15) year life, property owners will be assessed between ten percent to one hundred percent (10%-100%) of the replacement cost, with the property owner's share increased by ten percent (10%) for each year.

State Law Reference: Sec. 66.615, Wis. Stats.

SEC. 6.22 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS.

- (a) **Permit Required.** No person or public utility shall cause any excavation on any public right-of-way for the purpose of installing any sewer line, water pipe, gas pipe, electric, telephone or telegraph transmission line, cable or any other utility or any excavation without first having obtained a permit for such excavation from the City Engineer, except as herein provided in Subsection (k).
- (b) **Insurance Required.**
 - (1) A permit shall be issued only if the applicant submits evidence to the City Engineer, that the applicant is covered by public liability insurance in the following minimum amounts and that such insurance protects the City from all claims:
 - Personal Injury: \$1,000,000
 - Property: \$1,000,000
 - One Person, One Accident: \$500,000
 - (2) The evidence of insurance shall also provide that the City be notified at least ten (10) days prior to cancellation or expiration of the insurance.

- (3) The provisions of this Subsection do not apply to public utilities covered under Sec. 66.045(6), Wis. Stats.

- (c) **Information to Accompany Application.** The applicant shall submit to the City Engineer, at the time the permit is applied for, sufficient information on the proposed work for proper evaluation. The City Engineer shall determine whether sufficient information has been submitted, but in no case shall it be less than a plan or sketch in triplicate of the proposed work showing the location, nature, reason and method of doing the work.

- (d) **Deposit.**

- (1) The applicant shall submit to the City Engineer a cash deposit conditioned to guarantee the restoration of the surface of such right-of-way or portion of right-of-way disturbed by the proposed excavation, unless the required deposit has been waived by the Common Council. The applicant shall in all cases be responsible for the surface restoration or the cost of such restoration.
- (2) The amount of the required cash deposit shall be as follows:
 - a. For all excavations along a public highway not exceeding sixty (60) feet in length: Five Hundred Dollars (\$500.00).
 - b. For all excavations exceeding sixty (60) feet and not more than five hundred (500) feet: One Thousand Five Hundred Dollars (\$1,500.00).
 - c. For all excavations exceeding five hundred (500) feet and not more than one thousand (1,000) feet: Three Thousand Dollars (\$3,000.00).
 - d. For all excavations exceeding one thousand (1,000) feet, the cash deposit shall be based on a rate of Three Dollars (\$3.00) per foot.
 - e. For multiple excavations within the current calendar year, an applicant may, in lieu of the above, provide an annual deposit of Ten Thousand Dollars (\$10,000.00). Such deposit shall at all times be maintained at that amount.
 - f. No deposit will be required for excavations in an arterial street where jurisdictional control is afforded by Milwaukee County or the State of Wisconsin.

- (e) **Use of Deposits.** The City may use any or all of a deposit to pay the cost of work the City performs to restore the public place as herein provided. In the event the applicant fails to perform such work, the amount refunded to the applicant shall be reduced by the amount expended by the City plus twenty-five percent (25%) of such cost for general overhead and administrative expenses.

- (f) **Release of Cash Deposit.** All restoration work shall be guaranteed for a period of one (1) year after completion. Upon completion of the work in a satisfactory manner, but not sooner than twelve (12) months thereafter, the deposit shall be refunded.
- (g) **Public Utility Companies.** Where excavations are made by public utilities covered under Sec. 66.045(6), Wis. Stats., a permit may be granted without such deposit. It is further provided, however, that the City may, in the future, require such deposit from any such utility if a bill rendered in accordance with this Section remains unpaid thirty (30) days after the date of invoicing.
- (h) **Permit to be Displayed.** A copy of the permit shall be available at the site at all times.
- (i) **Automatic Expiration of Permit.** If work is not commenced within sixty (60) days of the issuance of the permit or within the time period specified on the permit, the permit shall automatically expire and a new permit shall be obtained and an additional fee charged. The City Engineer may extend the time limit for sufficient cause.
- (j) **Notices Required.** Notice required from the applicant regarding street opening permits shall be as follows:
 - (1) The applicant shall notify all public and private individuals, firms and corporations affected by the work and Digger's Hotline at least three (3) working days before such work is to start.
 - (2) The applicant shall notify the City Engineer at least three (3) working days prior to the commencement of work and again at least twenty-four (24) hours prior to backfilling and/or restoring the surface.
- (k) **Emergency Work.** When an immediate excavation is necessary for the protection of public or private property and City offices are closed, the same shall be reported to the Police Department, which shall grant permission to make the necessary excavation upon condition that an application be made in the manner herein provided within three (3) working days.
- (l) **Removal of New Pavement.** Whenever it is necessary to remove street or alley pavement for installation of new facilities within five (5) years of the construction of the pavement, the applicant shall pay and forfeit as damages to the City the following charges based upon the unit prices as established by the Common Council for the year in which the opening is made, such charges to be in addition to the restoration costs incurred by the applicant:
 - (1) First Year. Fifty percent (50%) of the unit price.
 - (2) Second Year. Forty percent (40%) of the unit price.
 - (3) Third Year. Thirty percent (30%) of the unit price.
 - (4) Fourth Year. Twenty percent (20%) of the unit price.
 - (5) Fifth Year. Ten percent (10%) of the unit price.
- (m) **Maximum Trench Opening.** Not more than four hundred fifty (450) lineal feet of trench shall be opened at one time.
- (n) **Time Limit for Completion of Work.** No trench excavation shall remain open in excess of three (3) calendar days, unless permission is obtained from the City Engineer prior to the third day. For each day or fraction thereof the excavation remains open in excess of three (3) days, the applicant shall pay to the City One Hundred Dollars (\$100.00).
- (o) **Conformance With Regulations.** All work shall be done with the applicable standards of the Department of Industry, Labor and Human Relations. All work shall conform with the applicable regulations of the Occupational Safety and Health Administration (OSHA). All work shall conform with the rules and specifications of the City of Oak Creek.
- (p) **Traffic Control.** Where construction work or materials interfere with normal pedestrian and vehicular traffic or use of the street, the applicant shall prove and maintain proper barricades, signs, flags and flagmen. All markings and signing provided for traffic control purposes shall conform to the standards and specifications of the current issue of The Wisconsin Manual On Uniform Traffic Control Devices. The City may order the placement or use of additional safety devices, and the contractor or owner shall pay all costs associated with their placement.
- (q) **City's Right to Restore.** If the applicant fails to restore the worksite to its specified condition within fourteen (14) days of being notified to do so, the City Engineer shall have the right to do any and all necessary restoration work. The applicant shall be liable for the actual cost thereof plus twenty-five percent (25%) of such cost for general overhead and administrative expenses. The cost of said work shall be deducted from the cash deposit, where applicable, or billed directly to the applicant, company or contractor responsible. Should the cost of repairs exceed the cash deposit held, the additional amount shall be billed. No future excavation permits shall be issued to the applicant until such invoices are paid in full.
- (r) **Method of Performing Work.** The following procedures shall be observed in all street excavations:
 - (1) Installation Beneath Existing Pavements. The required method of service installation shall be accompanied by using boring, drill-

- ing, driving, jacking or similar techniques where pavements exist. Installation by trenching or excavation shall be approved only as a last resort.
- (2) Trenching or Excavating. The trench shall be excavated to a sufficient width and depth to permit the laying of the pipe, conduit or cable. All care and caution shall be used to avoid damaging existing pipe, conduit or cable.
 - (3) Excess of Waste Materials. All waste and excess excavated material shall be removed from the street limits as the work progresses and shall not be deposited on the site.
 - (4) Backfilling.
 - a. Gravel backfill shall be used in all longitudinal open cuts in all terrace areas and all excavations in public lands. All gravel backfill shall be consolidated by flooding or tamping.
 - b. Slurry backfill shall be used in all pavement areas. Where a rural cross-section exists, the slurry backfill shall extend five (5) feet beyond the pavement or to the edge of the existing shoulder, whichever is the greater distance. Where an urban cross-section exists the slurry backfill shall be used in all areas within the street right-of-way except in longitudinal open cuts in terrace areas.
 - (5) Interim Pavement Maintenance. All existing pavement areas which have been excavated shall have the excavation backfilled with slurry material to within eight (8) inches of the bottom surface of the concrete or asphalt pavement. A layer of compacted three-fourth (3/4) inch traffic bond (TB) shall be placed to within two (2) inches of the top surface of the existing pavement. This shall be topped with two (2) inches of bituminous concrete. This Interim Pavement shall be maintained, in good condition, for a minimum of two (2) weeks. Open gravel trenches shall not be permitted.
 - (6) Final Pavement Restoration. After the two (2) week interim pavement period has passed, the applicant shall perform such work as may be necessary to restore the pavement area to its final condition. At minimum, this shall consist of removing the temporary surface, saw cutting and trimming all broken or rough edges of the existing pavement, and restoring the pavement surface to an equal to or better than original condition. The applicant shall guarantee and maintain the site of the excavation for one
 - (1) year after restoring it to its original condition.
 - (7) Restoration of Non-Pavement Areas. All surfaces and subsurfaces of other than pavement areas which were disturbed during the excavation process shall be replaced and restored to substantially the same condition as they were prior to such disturbance.
- (s) **Penalties.**
 - (1) If work is started on an excavation or service installation within the public right-of-way or public lands prior to a permit being issued for such work, the permit fee shall be doubled. This provision shall not be applicable to emergency work under Section 6.22(k).
 - (2) Any person who shall violate any provision of Section 6.22, or any order, rule or regulation hereunder, shall be subject to a penalty as provided in Section 1.07 of the Municipal Code.
 - (t) **Permit Fees.** For the purpose of administering the provisions of this Section, each applicant shall pay to the City Treasurer permit fees prescribed by Section 3.40.

SEC. 6.23 OBSTRUCTIONS AND ENCROACHMENTS.

- (a) **Obstructions and Encroachments Prohibited.** Obstructions and encroachments in publicly owned or controlled lands or waterways are prohibited, except as provided in Section 6.27. No person shall build, place, maintain or cause, permit or allow to be placed, built or maintained or pile, deposit or place or permit to be piled, deposited or placed in, upon or over any street, alley, sidewalk, easement, public right-of-way, drainage right-of-way, waterway, or public lands or any part thereof, or in any way encroach upon or obstruct or encumber any street, alley, sidewalk, easement, public right-of-way, drainage right-of-way, or public lands or any part thereof. No person may permit such encroachment or encumbrance to be placed on or remain on any public lands adjoining the land of which he is the owner or occupant except as provided in Sections 6.27.
- (b) **Exceptions.** Exceptions to the prohibition of obstructions and encroachments shall be governed by Section 6.27.
- (c) **Notice for Removal of Obstructions and Encroachments.** Notice for removal of obstructions and encroachments shall be issued in writing. In addition to any other penalty imposed, if any City enforcement official determines that City lands are unlawfully obstructed in violation of this Section, he shall issue a written notice to the owner or occupant of the lands which adjoin the obstruction, di-

recting that the obstruction be removed within twenty-four (24) hours.

- (d) **Failure to Remove Obstruction.** The City reserves the right to pursue remedies provided in the Wisconsin Statutes.
- (e) **Terrace Areas.** Terrace areas shall be governed by Section 6.25.

Ordinance No. 2752, A 03/03/15, Sec. 6.23

Ordinance No. 2763, A 04/21/15, Sec. 6.23

SEC. 6.24 SNOW AND ICE REMOVAL.

- (a) **Removal Requirements.** The owner or occupant of any real property abutting or fronting upon a paved public sidewalk shall remove and clear away or cause to be removed and cleared away, all snow and ice to the full-paved width of such sidewalk within twenty-four (24) hours after such snow or ice has ceased to fall or accumulate thereon. When ice has formed on any sidewalk, such that it cannot be removed, then the person responsible shall prevent such ice from presenting a hazard to pedestrian traffic by the use of ashes, sawdust, sand, salt, or any other similar substance.
- (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 or ice from sidewalks as specified in Subsection (a) within the time set forth in said Subsection, the City Engineer may remove or cause to be removed, any snow or ice from any and all sidewalks that may be so neglected by the owner or occupant. A fee shall be assessed against the owner or occupant for the cost and expense of removing such snow and ice. The fee will be charged against the respective lots and parcels of land adjacent to which such work was done, and the cost thereof reported to the City Clerk who shall spread the cost on the tax roll as a special charge, or assessment, against the premises, pursuant to Section 66.60(16), Wisconsin Statutes, or such costs may be recovered in an action against the owner or occupant.
- (c) **Prohibited Placement.** No person except the State, County or City shall deposit or cause to be deposited, upon any street, alley, sidewalk, parkway, or public land any snow or ice taken or removed from his premises. No person except the State, County or City shall use private or public lands within the City as a place for the disposal or dumping of snow or ice from public or private property or from another municipality except with the permission of the owner. The deposit of any snow or ice upon any street, alley, sidewalk, parkway, or public lands of the City, contrary to the provisions of this Chapter shall be and is hereby declared to be a nuisance. The City may remove any snow or ice so deposited and cause the cost of such removal to be charged to the owner or occupant of the property from which

said snow or ice was removed and illegally deposited, pursuant to Section 66.60(16), Wis. Stats.

- (d) **Hydrants and Mailboxes.** Every property owner or occupant shall keep all fire hydrants and mailboxes abutting his property free and clear of all snow and ice.
- (e) **Reverse Frontage Lots.** The City shall remove and clear away all snow and ice upon paved public sidewalks at the rear of reverse frontage lots where a building does not front on, or face, the public sidewalk.

State Law Reference: Secs. 66.60(16) and 66.615(3)(f) and (5), Wis. Stats.

Ordinance No. 2288, A 01/21/04, Sec. 6.24(f)

SEC. 6.25 TERRACE AREAS.

- (a) **Definition.** For purposes of this Section, the “Terrace Area” shall be as defined as that area between the curb and the sidewalk, and where no sidewalk exists, that area between the street pavement and the right-of-way/property line.
- (b) **Allowable Paving.** Sidewalks and driveway approaches as installed by the City, or under permit by the property owner, shall be the only paving allowed in the terrace area.
- (c) **Lawn and Weeds.** All parts of the terrace area not covered by allowable paving shall be maintained as a lawn. The terrace area shall be kept free of all noxious weeds.
- (d) **Structures and Mailboxes.** No structures or fixtures shall be placed in the terrace area. Examples of prohibited items would be basketball backstops, statuary, flagpoles and other objects. The exception to this subsection is the installation of a mailbox as specified by the United States Postal Service.
- (e) **Responsibility to Maintain.** Every owner of land in the City whose land abuts a terrace area is required to maintain or have maintained by his tenant or contractor the terrace directly abutting such land as provided in this Section or in other ordinances and regulations.

State Law Reference: Sec. 66.045, Wis. Stats.

SEC. 6.26 SIDEWALK AREA DINING FACILITIES; PERMITS.

- (a) **PURPOSE.** The purpose of this section is to establish reasonable rules and regulations governing placement, operation and maintenance of sidewalk area dining facilities in the public right of way. The City may allow such uses in the public way but must first ensure that convenience, safety and general access for pedestrians will be maintained.
- (b) **DEFINITION.** A “sidewalk area dining facility” shall mean an open air space located in the public

right-of-way and created for the purpose of consuming food or beverages prepared on private property adjacent thereto.

(c) **PERMIT REQUIRED.** It shall be unlawful for any person to use the public right-of-way as a sidewalk area dining facility without first obtaining a permit therefore. The application and annual space rental fee for sidewalk area dining facilities shall be as specified in Section 3.40.

(d) **PERMIT.**

(1) **Application.** Application for such a permit shall be made to the Director of Community Development or designee. Applications shall include a dimensioned drawing illustrating existing physical conditions in the location of the proposed sidewalk area dining facility, a dimensioned site plan showing proposed design of the sidewalk area dining facility (i.e. layout of tables, chairs, planters, fencing or other barricades, lights, signs, relationship to entrances and other street level physical features of the associated building) and a written plan of operation. The plan of operation at a minimum shall indicate:

- a. The expected starting date and ending date of the sidewalk area dining facility.
- b. The proposed daily hours.
- c. The planned capacity of the sidewalk area dining facility.
- d. Whether any of the proposed sidewalk area dining facility improvements would be physically attached to the public infrastructure and if so, how.
- e. The Director of Community Development or designee shall develop appropriate application forms and may list on those forms additional information needed to adequately review applications. The application must be signed by both the applicant and the property owner (if other than the applicant).

(2) **Insurance.** The applicant for a sidewalk area dining facility shall assume responsibility for all liability for damages to persons or property associated with creation, operation and maintenance of the sidewalk area dining facility and shall maintain the minimum insurance coverages specified in the City's Risk Management Policy. A certificate of insurance naming the city as an insured party shall be submitted prior to issuance of the permit.

(3) **Surety Bond.** The Director of Community Development or designee may require a bond of surety company duly incorporated in the state of Wisconsin or duly licensed to do business in the state in such sum as he or she

may require but not exceeding \$10,000, such bond to be approved by the City Attorney.

(4) **Decision.** The Director of Community Development or his designee may either approve, conditionally approve or deny the application for a sidewalk area dining permit.

(5) **Appeals.** Any applicant aggrieved by the decision of the Director of Community Development or designee may appeal such decision to the Common Council.

(6) **Permit Term.** A sidewalk area dining permit shall be valid from July 1 through June 30.

(7) **Renewal.** A sidewalk area dining permit may be renewed upon payment of the annual space rental fee (see Section 3.40).

(8) **Display of Permit.** The permit holder shall display the approved sidewalk area dining permit in proximity to the sidewalk area dining facility so that it will be visible to passing pedestrians.

(e) **REMOVAL.** The permit holder shall remove all tables, chairs, fencing and other material associated with the sidewalk area dining facility and restore the public way whenever public necessity so requires as determined by Resolution of the Common Council or upon expiration of the permit. In addition, the Director of Community Development or designee may order the temporary removal of sidewalk area dining facilities for major civic events, emergency repairs or other public improvements. The permit holder shall not be entitled to any damages if or when removal is required.

(f) **MINIMUM SIDEWALK CLEARANCE.** All sidewalk area dining facilities shall maintain a minimum sidewalk clearance of 5 feet, and the minimum clearance shall be kept clear of all obstructions, as specified in the guidelines provided by the Director of Community Development or designee under sub. (g).

(g) **GUIDELINES.** The Director of Community Development or designee in administering this section shall establish guidelines. These guidelines shall include standards regarding the location, design and operation of sidewalk dining areas.

(h) **ASSOCIATED PERMITS.** In order to construct and operate a sidewalk area dining facility, certain associated City permits or approvals may be required (e.g. building permit, extension of alcohol beverage premises license, health permit). Issuance of a sidewalk area dining permit does not alter the need to obtain any associated required permits.

Ordinance No. 2753 A 03/03/15, Sec. 6.26

Ordinance No. 2886, A 12/05/17, Sec. 6.26(d)(6)

SEC. 6.27 PERMISSIBLE OBSTRUCTIONS, PROJECTIONS AND ENCROACHMENTS.

(a) General Regulations.

- (1) Except as otherwise regulated in this section, no part of any building, structure, addition, alteration or construction hereafter erected shall project a right-of-way line.
- (2) Structures, appendages or architectural ornamentations projecting beyond a right of way line as regulated and permitted by this section shall be constructed of materials as required in Ch. 15 and as further regulated herein. The projection of any structure, appendage or ornamentation shall be the distance measured horizontally from the right-of-way line to the outermost point of such structure, appendage or ornamentation.
- (3) No person shall erect, place or store any material, equipment, shed, roof, fence or temporary walk, guard, device or any other structure on a public thoroughfare, nor shall any person move any building or structure onto, across or over any public thoroughfare without first obtaining a permit therefore from the City Engineer.
- (4) Permit fees for permissible projections shall be as specified in section 3.40.
- (5) There shall be no permitted projections which limit the clear paved sidewalk width to less than 5 feet.
- (6) No permission shall be given for projections into the public right-of-way where there is no paved public sidewalk, unless the encroachments are otherwise allowed by code.
- (7) There shall be no permitted projections which encroach within 3 feet of the back of the curb.

(b) Structural Integrity. All projections permitted in this chapter, except footings and their supports shall be so constructed that their removal may be made without causing the building or structure to become structurally unsafe.

(c) Maintenance and Removal.

- (1) All construction for which a permit is hereafter granted pursuant to the regulations of this section by the Director of Community Development for projections beyond the right-of-way line, or by the City Engineer permitting the occupancy or use of public property or public thoroughfares, and any special privilege granted by the Common Council pursuant to this section, and all other existing projections, obstructions or encroachments shall be maintained in good state of repair and in safe condition.

- (2) Such construction shall be removed and the permit revoked whenever public necessity or public safety so requires when ordered by the Building Commissioner, the Zoning Administrator, City Engineer, by resolution of the Common Council or by authorities of the State of Wisconsin.
- (3) No change or enlargement shall be made to any such existing projection, obstruction or encroachment, except in conformity with the regulations of this section.

(d) Permissible Projections, Obstructions and Encroachments – Drexel Town Square. Under the conditions prescribed in this section and within the limitations regulated herein, the following projections, obstructions and encroachments beyond a right-of-way line in the Drexel Town Square Mixed Use Planned Development District are permitted:

- (1) Main cornices or roof eaves projecting not more than 3 feet, provided they are a minimum of 10 feet above the adjacent established grade.
- (2) Cornices of porches and false mansard-type structures projecting not more than 15 inches, provided they are a minimum of 10 feet above the adjacent established grade.
- (3) Pediments, nonstructural columns or pilasters, and similar architectural projections, including bases and capitals, projecting not more than 8 inches.
- (4) Masonry projections, including but not limited to quoins, belt courses, lintels, sills, base courses and rustications, projecting not more than 4 inches.
- (5) Footings or walls and their supports at right-of-way lines projecting not more than one foot, provided the tops of the footings are a minimum of 4 feet below the adjacent established grade. Projections beyond the one-foot line shall be subject to the approval of the City Engineer.
- (6) Doors when open may project not more than 36 inches.
- (7) Fire escapes and balconies to smoke-proof stair towers or horizontal exits projecting not more than 7 feet. All other balconies may project not more than 6 feet. Fire escapes and balconies shall be a minimum of 10 feet above the adjacent established street walk grade.
- (8) Oriel or bay windows projecting not more than 24 inches, provided that the lowest portion of the window is a minimum of 10 feet above the adjacent established grade. No oriel or bay window that projects into a public right-of-way shall exceed 10 feet in width.

- Oriel and bay windows shall not be permitted to project into a public right-of-way which is less than 30 feet in width.
- (9) Exterior hose connections for fire protection equipment, in approved locations, projecting not more than 8 inches, provided that such connections are a minimum of 1 ½ feet but not more than 3 feet above the adjacent established grade.
 - (10) Awnings, canopies and sunshades when constructed and located as regulated in Sec. 6.29.
 - (11) Remodeled building facades encroaching a maximum of 6 inches.
 - (12) Temporary encroachments and use of public thoroughfares during erection, construction, enlargement, alteration, repair, renovation, moving, removing or demolition of buildings and structures provided that a permit is obtained pursuant to Sec. 6.28(d).
 - (13) Signs or advertising devices when constructed as regulated in Ch. 17.
 - (14) Roof gutters and conductors may not project above grade into a public right-of-way.
 - (15) The cutting of street curbs, the installation of driveways and any construction therewith, when in conformity with rules and regulations of the City Engineer and permitted by the City Engineer.
 - (16) Electrical or gas lighting fixtures attached to the exterior walls of buildings or structures, in approved locations, projecting not more than one foot, provided that the lowest portion of the fixture is a minimum of 7 feet but not more than 10 feet above the adjacent established grade. The fixtures, when more than 10 feet above grade, may extend 5 feet into the public right-of-way.
 - (17) Security cameras attached to the exterior walls of buildings or structures projecting not more than 5 feet into the public right-of-way, provided they are greater than 10 feet above the adjacent established grade.
 - (18) Sewer manholes and catch basins shall be permitted when protected with metal covers or gratings, approved by the City Engineer, flush with the top surface of the street walk, designed to support a live load of 250 pounds per square foot. Such covers or gratings shall be maintained normally closed and secured in place, and when open shall be equipped with approved guards to prevent accidents.
 - (19) Temporary monitoring wells when associated with remediation project recognized by the State of Wisconsin.
 - (20) Flagpoles for the flying of federal, state, county or municipal flags only, attached to the exterior walls of buildings or structures, projecting a distance not closer than 3 feet from the curb line, provided the flag and pole have at least 8 feet clearance above the street walk.
 - (21) Items installed in the public right-of-way as part of a streetscape for which a maintenance agreement, approved by the Common Council, has been fully executed.
 - (22) Decorative landscaping edging in the public right-of-way provided:
 - a. **PLANTING OF FLOWERS.** The planting of flowers in the public right-of-way is permitted as long as it does not encroach in the minimum unobstructed 5'-width path of pedestrians or block the vision of motorists. The diggers hotline must be contacted at least 3 business days prior to any excavation related to this subsection.
 - b. **REQUIREMENTS.** Plants may not grow so as to obstruct or encroach upon the curb or sidewalk, block sight lines to the street, be higher than 3 feet or potentially create a trip hazard on the sidewalk or roadway. The Engineering Department may issue additional planting guidelines.
 - c. **LANDSCAPING EDGING.** Decorative landscaping edging is permitted in the public right-of-way. It may not obstruct or encroach upon the curb or sidewalk, block sight lines to the street or potentially create a trip hazard on the sidewalk or roadway.
 - d. **CITY LIABILITY.** The City shall be held harmless from and against any damages to plantings permitted in this section occurring due to City operations or repairs including tree trimming, tree removal, stump removal, tree planting, utility repair and plowing or salting.
 - e. **VIOLATIONS.** If the Engineering Department determines that circumstances warrant, the property owner shall be notified and given 30 days to correct the violation. If the property owner does not remove the plant material within 30 days, the Engineering Department will take corrective action. The cost of any corrective action shall be a special charge against the property.
 - (23) Approved appliances and devices used in connection with equipment not otherwise regulated herein, in approved locations, projecting not more than one foot, provided the lowest portion thereof is a minimum of 10 feet above the adjacent established grade.

- (24) Temporary obstructions, authorized by permit.
 - (25) Sidewalk Area Dining Facilities as provided Section 6.26.
 - (26) Wayfinding Signs, except for signs subject to an airspace lease, which shall be permitted if approved by a separate Ordinance.
 - (27) Publicly owned benches.
 - (28) Publicly owned Bicycle Parking Facilities.
 - (29) Publicly owned Flower Pot Holders and Planter Beds.
 - (30) Special Privilege Permits granted pursuant to Common Council Resolution.
- (e) **Permissible Projections, Obstructions and Encroachments – City Wide.** Under the conditions prescribed in this section and within the limitations regulated herein the following projections, obstructions and encroachments beyond a right-of-way line are permitted throughout the City:
- (1) Building materials delivered and temporarily stored on any street, alley or sidewalk shall be neatly and compactly piled along pavement sides in such a manner as to minimize inconvenience to property owners, vehicular traffic, pedestrians and the general public. Materials shall not be placed within twenty (20) feet of any hydrant. Private drives shall be kept open. Trees and other improvements shall be protected from damage. Barricades with flashing lights will be set to warn of materials stored on the pavement. The City may order additional safety devices, and the contractor, or owner, shall pay all costs associated with their placement. These and any other conditions shall be prescribed by the City Engineer.
 - (2) Public utility encroachments duly authorized by state law or the City.
 - (3) Goods, wares, merchandise, or fixtures being loaded or unloaded which do not extend more than three (3) feet onto the sidewalk. Such items shall be removed within three (3) hours.
- (f) **Enforcement.** This section shall be enforced by the Zoning Administrator.

Ordinance No. 2763, A 04/21/15, Sec. 6.27

SEC. 6.28 PERMITS

- (a) No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, raze or demolish any permissible projection regulated in Section 6.27 or any existing projections without first obtaining a permit from the Building Commissioner which shall provide that the permittee holds the City harmless for any work done pursuant to said permit and provided that the permittee shall be responsible for any damages to existing buildings and

utilities and paying the fee as specified in Section 3.40.

- (b) No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, raze or demolish any permissible projection regulated in Section 6.27 or any existing projections without first providing to the City Engineer a Certified Survey depicting the projection, obstruction or encroachment at multiple locations as directed by the City Engineer.
- (c) No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, raze or demolish any permissible projection, obstruction or encroachment regulated in Section 6.27(5) without first obtaining a permit from the Building Commissioner and obtaining approval of a shoring plan from the City Engineer and providing a surety bond as approved by the City Engineer or City Attorney.
- (d) No person shall temporarily encroach upon or use the public thoroughfares during erection, construction, enlargement, alteration, repair, renovation, moving, removing or demolition of buildings or structures without first obtaining a permit from the City Engineer.

Ordinance No. 2763, A 04/21/15, Sec. 6.28

6.29 AWNINGS, CANOPIES AND SUN SHADES

- (a) **Definition.** In this section “awning, canopy or sun shade” means a roof-like structure attached to the exterior of a building or structure in an approved manner.
- (b) **General regulations.** Awnings, canopies and sun shades, when projecting beyond the street line shall comply with the regulations of this section. No awning canopy or sun shade shall project into a public right-of-way which is less than 30 feet in width.
- (c) **Length.** There shall be no limitation on the length of an awning, canopy or sun shade.
- (d) **Projection.** The projection of an awning, canopy or sun shade from the right-of-way line shall not exceed ½ the distance from such right-of-way line to the curb line, but not more than 6 feet in any case. If a sidewalk is less than 12 feet in width, the awnings may project 6 feet, but not closer than 3 feet to the curb line.
- (e) **Clearance.** There shall be not less than 10 feet in the clear between any point of an awning, canopy or sun shade and the sidewalk grade below.
- (f) **Construction and design.** Awnings, canopies and sun shades shall be:
 - (1) Constructed or noncombustible, rust-resistive materials. Awnings covered in cloth, canvas or other approved pliable material shall be sufficiently flame-proofed and approved by Fire Department.

- (2) Supported entirely by the building or structure to which they are attached.
 - (3) Designed and supported to withstand snow and other loads of not less than 25 pounds per square foot and wind pressure of 20 pounds per square foot applied in any direction.
- (g) Signs and advertising. No sign or advertising device shall be hung from, attached to, printed or painted on an awning, canopy or sun shade unless the sign complies with the sign regulation of Ch. 17.

Ordinance No. 2763, A 04/21/15 Sec. 6.29

6.30 COAL TAR SEALANT PRODUCTS

(a) Definitions.

- (1) Coal tar. A byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).
- (2) Coal tar sealant product. A pavement sealant product that contains coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, Refined Tar or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances.
- (3) Director. The Community Public Health Officer or their designee.
- (4) High PAH sealant product. Any pavement sealant product that contains greater than 0.1% polycyclic aromatic hydrocarbons (PAHs) by weight, including, but not limited to, coal tar sealant products and sealant products containing steam-cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances assigned the chemical abstracts service number 64742-90-1, 69013-21-4 or related substances.
- (5) Pavement sealant product or sealcoat. Any substance that is typically applied on paved surfaces to protect the surfaces. This may include but is not limited to sealant products that are coal tar or asphalt based.
- (6) Polycyclic aromatic hydrocarbons (PAHs). A group of organic chemicals that are formed during the incomplete combustion of coal, oil, gas, or other organic substances, are present at high levels in coal tar, and are known to be harmful to humans, fish, and other aquatic life.

(b) Enforcement. Violations of this section will be enforced by the Community Public Health Officer or their designee.

(c) Regulation of the application and sale of coal tar or other high PAH sealant products.

- (1) Except as provided in subsection (d) below, no person shall apply any coal tar sealant

product or high PAH sealant product within the City of Oak Creek.

- (2) No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City of Oak Creek.
- (3) Any person who sells pavement sealant products shall prominently display, in the area where such pavement sealant products are sold, a notice that contains the following language: “The application of coal tar sealant products or other high PAH sealant products on driveways, parking lots and all other paved surfaces in the City of Oak Creek is prohibited by Section 6.30 of the City of Oak Creek Code of Ordinances. Polycyclic Aromatic Hydrocarbons (PAHs), are a group of organic chemicals that are known to cause cancer and are toxic to aquatic life. Coal tar and other high-PAH sealant products are a major source of PAHs that can travel into homes, buildings, and soils, or be carried by stormwater and other run off into the water resources of the City of Oak Creek.”
- (4) No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property that is under that person’s ownership or control.
- (5) No person shall contract with any commercial applicator, residential or commercial developer, or any other person for the application of any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City of Oak Creek.
- (6) No commercial applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City of Oak Creek.

(d) Exemptions. The Director may exempt a person from a requirement of Section 6.30(c) if the Director determines that:

- (1) the person is conducting bona fide research concerning the effects of a coal tar sealant product or high PAH sealant product on the environment; the use of the coal tar product or high PAH sealant product is required for said research; and the Director determines that said research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, and will not unduly endanger human health; or

- (2) if the person does not intend to apply the sealant within municipal boundaries.

(e) Penalty.

- (1) Any person who violates Section 6.30(c) by applying a coal tar sealant product or high PAH sealant product at his or her residence shall be subjected to a fine not to exceed \$500.
- (2) Each day that a violation occurs or continues is a separate offense and subject to an additional fine.
- (3) Any commercial sealant product applicator, residential or commercial developer, industrial or commercial owner, or any other person, other than a person identified under subsection (e)(1) above who violates Section 6.30(c) shall be subject to a fine of not less than \$1,000 nor more than \$10,000. Each incidence of a violation shall constitute a separate offense. Upon default of payment, the violator shall be subject to imprisonment for not less than 30 days nor more than 100 days.

Ordinance No. 2948, A 09/03/19, Sec. 6.30

TREES

SEC. 6.40 STATEMENT OF POLICY.

It is the policy of the City of Oak Creek to:

- (a) Regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas;
- (b) Promote and enhance the beauty and general welfare of the City; and
- (c) Prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located on public areas; and
- (d) To prevent the spread of disease and to eliminate dangerous conditions involving trees and shrubs on private property which may result in injury to persons using public areas.

Ordinance No. 2623, A 05/17/11, Sec. 6.40

SEC. 6.41 DEFINITIONS.

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

- (a) **Public Areas.** All public roads, parks and other lands owned, controlled or leased by the City except terrace areas.
- (b) **Public Trees and Shrubs.** All trees and shrubs located or to be planted in or upon public areas.
- (c) **Terrace Areas.** The land between the street curb and sidewalk. Where there is no curb and gutter, the official street right of way shall be deemed to be the terrace area.
- (d) **Shrubs.** Any woody vegetation or woody plant having multiple stems and bearing foliage from the ground up.
- (e) **Street Tree.** Any tree in the terrace area.
- (f) **Tree.** Any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level.

Ordinance No. 2623, A 05/17/11, Sec. 6.41

SEC. 6.42 DEAD, DISEASED OR DANGEROUS TREES

- (a) **Inspection and Removal Notice.** The City Forester, pursuant to Wis. Stats. 27.09 shall have the right, but not the obligation, to inspect trees, shrubs, vines, hedges, plants, logs, and branches within the City of Oak Creek to determine whether the same be healthy, diseased or dangerous. The City Forester shall have the right, but not the obligation, to enter upon any private property to make such ex-

amination. Such examinations shall include the right to take samples from such trees, shrubs, vines, hedges, plants, logs and branches for laboratory testing purposes. If any tree, shrub, vine, hedge, plant, log or branch is found dead, diseased, infected or infested and in the opinion of the City Forester is liable to spread any disease or is found to harbor destructive insects, or if any tree, shrub, vine, hedge, plant, log or branch is dangerous to persons using public areas, the City Forester shall give 60 days' written notice to the owner, agent or occupant of such property of such condition and direct that such owner, agent or occupant remove and destroy such tree, shrub, vine, hedge, plant, log or branch. The City Forester is empowered and authorized after the 60-day notice has passed and there is non-compliance with said notice to cause such trees, shrubs, vines, hedges, plants, logs or branches to be removed, or pruned at the expense of the owner.

- (b) **Costs of Removal.** The cost to be charged against any property for the removal of any dead, diseased or dangerous trees, shrubs, vines, hedges, plants, logs or branches shall be an amount equal to one hundred (100) percent of the actual contract price paid and one hundred (100) percent of the costs incurred by the City of Oak Creek for the removal of trees, shrubs, vines, hedges, plants, logs or branches. In the event that the owner, agent or occupant of any property from which the City Forester has caused to be removed any such trees, shrubs, vines, hedges, plants, logs or branches, fails to pay the costs charged to such property by November 1st of the year in which such cost has been billed to the property, the same shall be levied as a special charge against the property as authorized by Common Council resolution. Each such unpaid special charge shall thereupon become a lien against the property and the City Clerk shall insert the same as a special charge against the property as authorized by Common Council resolution. All proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes shall apply to said special charge if the same is not paid within the time required by law for payment of taxes upon real estate.

Ordinance No. 2623, A 05/17/11, Sec. 6.42

SEC. 6.43 STREET TREES.

- (a) **Permit.**
 - (1) Property owners shall be required to obtain a permit from the Engineering Division of the Public Works Department in order to plant or replant a street tree in the City right-of-way adjacent to their property. Upon issuance of the permit, the property owner shall comply

with all of the City's required standards and specifications.

- (2) For each street tree, a property owner will be provided with a "tree planting kit" containing stakes, hoses and wire, tree wrap and a fertilizer packet upon issuance of a tree planting permit.

(b) **Location and Replacement.**

- (1) If a tree is replaced, the tree shall be planted in the same location as the one it is replacing.
- (2) If a new planting is initiated by the property owner, the tree shall be located adjacent to a fully improved street in a location identified in the field by the City Forester using a copy of the street tree plans prepared by the Oak Creek Department of Community Development. The total cost of the new tree, including planting, shall be the responsibility of the owner.
- (3) If a tree dies due to disease, weather or vandalism, the owner of property adjacent to a diseased street tree may replace the tree. If the owner replaces the tree, replacement will be at the owner's cost in accordance with the tree planting policy's guidelines.
- (4) If a tree dies due to an accident, the person at fault in the accident or that person's liability insurance carrier shall be liable for the cost of the replacement of the damaged tree. The actual planting shall be done by a landscape contractor.
- (5) At least one (1) week prior to planting the tree, the property owner shall contact "Diggers' Hotline" to locate all buried utilities in the area where the tree will be planted.

(c) **Dead Tree Removal and Disposal.**

- (1) If a street tree has died for whatever reason, other than Subsection (b)(4), the City shall be responsible for the removal and disposal of the tree.
- (2) No healthy street tree in the street right-of-way shall be removed by a property owner for any reason whatsoever.

(d) **Post-Planting Maintenance.** After the planting of a new or replacement street tree, the City shall be responsible for the maintenance of the tree.

(e) **Tree Specifications.**

- (1) The following tree species may be planted in the street right-of-way:
 - a. American Linden (*Tilia americana*).
 - b. American Planetree (*Platanus occidentalis*).
 - c. Bur Oak (*Quercus macrocarpa*).
 - d. Common hackberry (*Celtis occidentalis*).
 - e. Ginkgo (*Ginkgo biloba*).
 - f. Green Ash (*Fraxinus pennsylvanica*).

- g. Kentucky Coffee Tree (*Gymnocladus dioica*).
- h. Little Leaf Linden (*Tilia cordata* 'Green-spire').
- i. London Planetree (*Platanus x acerifolia*).
- j. Norway Maple (*Acer platanoides*).
- k. Pin Oak (*Quercus palustris*).
- l. Red Maple (*Acer rubrum*).
- m. Schwedler Maple (*Acer platanoides* 'Schwedleri').
- n. Sugar Maple (*Acer saccharum*).
- o. White Ash (*Fraxinus americana*).

- (2) Other tree species may be planted in the street right-of-way only with the written approval of the City Forester.
- (3) All trees shall be at least eight (8) feet tall, have at least a two (2) inch diameter measured six (6) inches above the ground surface and have their roots balled in soil and wrapped in burlap.

SEC. 6.44 PROHIBITED ACTS.

- (a) **Damage to Trees.** No person shall, without consent of the owner in the case of a private tree or shrub, or without written permits from the City Forester in the case of a public tree or shrub, perform any of the following acts:
 - (1) Secure, fasten or run any rope, unprotected electrical installation or other device or material to, around or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub, or place cement or other solid substance around the base of the same.
 - (4) Remove any guard, stake, or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
- (b) **Excavations.** All trees on any terrace 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 Engineering Division of the Public Works Department.

- (c) **Interference with Forester.** No person shall interfere with or prevent any acts of the City Forester or his or her agents or employees while he or she is engaged in the performance of duties imposed by this section.

Ordinance No. 2623, A 05/17/11, Sec. 6.44

DRIVEWAY APPROACHES

SEC. 6.60 DRIVEWAY APPROACHES AND SIDEWALKS.

- (a) **Intent.** It is the intent of the Common Council to establish this chapter for the purpose of:
- (1) Avoiding or lessening congestion in the public streets.
 - (2) Establishing standards to which driveway approaches and sidewalks shall conform.
- (b) **Definitions.** As used in this Section, these terms are defined as follows:
1. **Base Course.** The layer of material upon which the concrete or asphalt is placed. The base course is placed upon the subgrade.
 2. **Commercial Driveway Approach.** A driveway providing public or private access to an office, institutional building, regional or community shopping center, commercial building, or apartment building containing three (3) or more dwelling units.
 3. **Common Property Line.** The property line dividing two properties.
 4. **Depressed Curb.** A section of curb and gutter in which the back of the curb is one (1) inch above the gutter line.
 5. **Depressed Curb Driveway Approach.** A driveway approach which abuts a depressed curb section. This approach is required for commercial and industrial driveways and is allowed for use with residential driveways.
 6. **Depressed Driveway.** A driveway whose section in the sidewalk area is of a lower elevation than that of the existing or proposed sidewalk abutting it.
 7. **Driveway or Driveway Approach.** Any area constructed in the public right-of-way, connecting the paved public roadway with private property, for the purpose of providing access for vehicles. This area shall include a sidewalk section if required.
 8. **Driveway Width.** The width of the driveway measured along the street right-of-way line, or the future street right-of-way line.
 9. **Flare.** The widening of the driveway approach which abuts the curb or the edge of the roadway pavement.
 10. **Industrial Driveway Approach.** An approach intended and designed to provide access for large and heavy truck-type vehicles.
 11. **Interim Driveway Approach.** An approach located on a public street which has an interim street section.
 12. **Interim Street Section.** A public street in which all of the proposed and ultimate improvements have not yet been installed.
 13. **Mountable Curb.** A curb with a curved cross-section designed to enable the passage of vehicles.
 14. **Radial Line.** On a curved street, the line intersecting the point of radius or center of the curve.
 15. **Residential Driveway Approach.** An approach providing vehicle access to single family and duplex residences.
 16. **Right-Of-Way (R.O.W.).** Publicly owned land for the purpose of vehicular, pedestrian, or utility use.
 17. **Right-Of-Way Line.** The line dividing a private property and the public right-of-way.
 18. **Rural Roadway "A".** A public street with roadside ditches and road shoulders.
 19. **Rural Roadway "B".** A public street with mountable concrete curb and gutter, sump pump drainage system, and storm sewer system. No sidewalk is required.
 20. **Sidewalk.** An area which is paved to provide access for pedestrian traffic.
 21. **Subgrade.** The existing ground material as prepared to accept the placement of the base course material.
 22. **Terrace Area.** The area between the curb and sidewalk, and where no sidewalk exists, that area between the street pavement and the property line.
 23. **Urban Roadway "A".** A public street with mountable concrete curb and gutter, concrete sidewalk, and a storm sewer system.
 24. **Urban Roadway "B".** A public street with vertical face concrete curb and gutter, and a storm sewer system. A concrete sidewalk may be required.
 25. **Vertical Face Curb.** A curb with a cross-section designed to impede vehicular passage.
- (c) **Permit Provisions.** A permit must be obtained to construct, repair, rebuild, or replace any driveway or sidewalk located in a City controlled public right-of-way.
- (1) Application shall be made to the Engineering Division.
 - (2) A permit fee as established in Section 3.40 shall be paid to the City Treasurer.
 - (3) The City Engineer may refuse to grant a permit, or may revoke a permit, where it can be demonstrated that the installation of a driveway approach would constitute a threat to public safety, well-being, or convenience.
 - (4) A permit must be obtained prior to commencing any work within the right-of-way.
 - (5) Only one (1) permit is required for residential driveways that have two (2) approaches constructed simultaneously.

(d) **Construction Requirements.**

- (1) The construction of all driveway approaches and sidewalks shall conform to this section and the current standards and specifications published by the Engineering Division.
- (2) No driveway approach or sidewalk shall interfere with street light poles, traffic signals, traffic signs, catch basins, fire hydrants, crosswalks, bus stops, utility poles, fire alarm supports, drainage structures, underground utility pipes and ducts, or other similar street structures.
- (3) No part of the driveway approach, including flares and radiuses, shall extend beyond the imaginary line created by the extension of the common property line to the curb or edge of pavement.
- (4) Where an existing curb and gutter section must be removed to allow for the installation of a depressed curb section, the following criteria shall be satisfied. The existing curb section which abuts the proposed driveway approach must be removed in its entirety. Curb removal shall be from an existing or sawed joint to another existing or sawed joint. Sawed joints shall be cut to the full depth of the curb and gutter section. Removal of curb and gutter shall not result in the creation of a remnant section of curb and gutter less than four (4) feet in length.
- (5) Driveway approaches located on streets that have vertical face curb shall be installed as a depressed curb driveway approach.
- (6) A depressed curb driveway approach shall be required for all commercial and industrial driveway approaches.
- (7) A depressed curb driveway approach may be installed in locations where mountable curb exists in residential zoning districts.
- (8) Where the back of curb or edge of pavement are on a straight line, the centerline of the driveway approach shall be at an angle of ninety (90) degrees to that line. Where the back of curb or edge of pavement are on a curve, the centerline of the driveway and the outer edges of the sidewalk (where required), shall be radial to that curved line.
- (9) Driveway approaches which require the crossing of any existing or proposed roadside ditch, drainage way, channel or swale, shall require the installation of a corrugated metal pipe or culvert of adequate size such that existing or proposed drainage is not impeded. The property owner shall make application to the City of Oak Creek Street Division for such installation, and shall pay all costs thereof in accordance with Section 3.40.

(e) **Inspection and Approval.**

- (1) All work shall be subject at all times to the inspection and supervision of the City Engineer.
- (2) Inspection is required of all work and shall be requested by the owner or contractor.
- (3) The request for inspection shall be made after the base course has been placed and shaped, and all necessary forms for all concrete work have been set and fixed in place.
- (4) No concrete or asphalt shall be placed prior to inspection and approval of the base course and required forms.

(f) **Financial Responsibility.**

- (1) All improvements shall be constructed and paid for by the property owner.
- (2) Repairs and replacements of driveway approaches and sidewalks will be the responsibility of the property owner, except when damage or removal has been caused by construction of a City project. The assessment will be based on then existing City policy.

(g) **Residential Driveways.**

- (1) General.
 - (a) All residential driveway approaches shall be paved within one (1) year from the date of issuance of a temporary occupancy permit, or of an occupancy permit where no temporary occupancy permit was issued for the property.
 - (b) Portland cement concrete or bituminous concrete (asphalt) shall be used for the construction of all residential driveway approaches and sidewalks. The exact requirement will be shown in the specifications issued by the City of Oak Creek Engineering Division.
- (2) Width.
 - (a) The minimum residential driveway approach width shall be ten (10) feet. The maximum width shall be twenty-four (24) feet. The minimum width for shared driveways for duplexes and two-family townhouses shall be twenty (20) feet.
 - (b) The minimum allowable flare shall be three (3) feet on each side of the driveway, as measured at the back of curb or the edge of the existing street pavement where no curb section exists.
 - (c) The maximum driveway approach width, as measured at the back of curb or the edge of the existing street pavement where no curb section exists, shall be no greater than thirty (30) feet.

- (3) Location.
 - (a) No part of the driveway, on private property, shall be closer than five (5) feet to a common property line.
 - (b) On corner lots, no part of the driveway approach shall be closer than forty (40) feet to the intersection of the property lines extended on the public right-of-way sides of the corner lot.
 - (c) Permits will not be granted for locations that have been denied access by subdivision development agreements, plat restrictions, or zoning regulation.
- (4) Number of Driveways Permitted.
 - (a) One (1) driveway approach shall be permitted per lot on all single-family lots with a width, as measured at the street right-of-way line, of one hundred (100) feet or less.
 - (b) For single family lots which exceed a width of one hundred (100) feet measured at the street right-of-way line, two (2) driveway approaches will be permitted.
 - (c) For duplex lots, the City Engineer may approve two (2) driveway approaches.
- (h) **Commercial Driveways.**
 - (1) General.
 - (a) Detailed driveway approach plans, including the proposed location, shall be provided to, and approved by, the City Engineer before a driveway approach permit will be issued.
 - (b) Driveway approach plans must be submitted for approval for any building containing more than four (4) dwelling units, and for all other commercial uses.
 - (c) Portland cement concrete shall be required for all driveway approaches and sidewalks where curb and gutter pavement exists as part of the roadway.
 - (d) Driveway approaches, located on streets that have a curb and gutter section, shall be installed as a depressed curb driveway approach.
 - (e) Portland cement concrete or bituminous concrete (asphalt) shall be used for the construction of all commercial driveway approaches on rural roadways and those streets with an interim street section. The exact requirement will be as approved by the City Engineer.
 - (2) Width.
 - (a) The minimum commercial driveway approach shall be twenty-four (24) feet. The maximum width shall be thirty-six (36) feet. The minimum width for paired driveways shall be twenty (20) feet for each driveway, and the maximum width for each driveway of the pair shall be twenty-four (24) feet.
 - (b) The minimum allowable flare shall be three (3) feet on each side. The minimum allowable radius shall be fifteen (15) feet on each side.
- (3) Location and number. The location and number of all commercial driveway approaches shall be reviewed by the City Engineer and approved by the Plan Commission.
 - (i) **Industrial Driveways.**
 - (a) Detailed driveway approach plans, including the proposed location, shall be provided to, and approved by, the City Engineer before a driveway approach permit will be issued.
 - (b) Driveway approach plans must be submitted for approval for all uses under the industrial driveway classification.
 - (c) Portland cement concrete shall be required for all driveway approaches and sidewalks where curb and gutter pavement exists as part of the roadway.
 - (d) Driveway approaches, located on streets that have a curb and gutter section, shall be installed as a depressed curb driveway approach.
 - (e) Portland cement concrete and bituminous concrete (asphalt) shall be used for the construction of all industrial driveway approaches on rural roadways and those streets with an interim street section. The exact requirement will be as approved by the City Engineer.
 - (f) An industrial driveway approach is required for industrial, manufacturing, warehouse, delivery and other heavy truck facilities.
 - (2) Width.
 - (a) The minimum industrial driveway approach width shall be thirty (30) feet. The maximum width shall be forty-eight (48) feet. The minimum width for paired driveways shall be twenty (20) feet for each driveway, and the maximum width for each driveway of the pair shall be thirty (30) feet.
 - (b) The minimum allowable flare shall be three (3) feet on each side. The minimum allowable radius shall be fifteen (15) feet on each side, but not less than that recommended by *The*

Transportation and Traffic Engineering Handbook, I.T.E., Current Edition, for minimum edge of pavement designs for turns at intersections with no encroachment on adjacent lanes.

- (3) Location and Number. The location of all industrial driveway approaches shall be reviewed by the City Engineer and approved by the Plan Commission.
- (j) **Farm Crossings.**
- (1) General. Driveway approaches under this category are to include only those approaches providing access from a paved street to tillable agricultural fields which are used for commercial farming. Driveway approaches from a paved public street to a farm residence, feedlot, machine shed or other similar farm structure, shall be classified as residential and shall be governed by that classification.
 - (2) Pavement Requirements. Driveway approaches used as farm crossings may be surfaced with crushed rock, stone, gravel, asphalt or macadam type pavement. Concrete pavement may be installed only on streets with a curb and gutter section.
- (k) **Variances.**
- (1) Request For Variance or Waiver.
 - (a) Requests for variances to the provisions of this Section must be submitted in writing to the City Engineer. The City Engineer may grant a variance in specific cases, which in his opinion do not conflict with the general intent of this Section, and where undue hardship may result if there is strict compliance with this Section, except that the City engineer may not grant a waiver to any requirement or condition imposed by the Plan Commission.
 - (b) The City Engineer may grant, at his discretion, an exception to or waiver from the requirements concerning location and placement of a driveway approach, except that the City Engineer may not grant a waiver to any requirement or condition imposed by the Plan Commission.
- (l) **Penalties.** Failure to obtain a permit or failure to install a driveway approach in accordance with the permit or provisions of this section shall be subject to a forfeiture as set forth in Section 1.07.
- (m) **Appeal.** Appeals to the Zoning Board of Appeals may be made by any person, firm or corporation aggrieved by the decision of the City Engineer, in the manner provided for in the Zoning Code.