

TITLE 6

Public Works

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|------------------|-----------------------|
| Chapter 1 | Grades |
| Chapter 2 | Streets and Sidewalks |
| Chapter 3 | Driveways |
| Chapter 4 | Trees and Shrubs |

Title 6 ► Chapter 1

Grades

- 6-1-1** Establishment of Grades
- 6-1-2** Alteration of Grade Prohibited
- 6-1-3** Regulation and Grades of Underground Utilities

Sec. 6-1-1 Establishment of Grades.

- (a) **Grades to be Established.** The grade of newly constructed streets, alleys and sidewalks shall be established by the Village Board and the same recorded by the Village Administrator 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) **New Sidewalk Grade.** 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 may be done by the owners of the abutting lots or parcels of land. Before such construction is commenced by the owners of the abutting lots or parcels of land, the Village Board shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

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 Butler by any means whatsoever unless authorized or instructed to do so by the Village Board or Public Works Superintendent. All such alterations of grade shall be recorded in the office of the Village Administrator.

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

- (a) **Elevation.** The grade or elevation of all underground construction 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 Superintendent.
- (c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the Public Works Superintendent before construction can begin.
- (d) **Inspection.** On request of the Public Works Superintendent, the utility company must provide opportunity for him 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, or of the storm sewer, at the election of the Public Works Superintendent and in accordance with his directions and specifications.
- (f) **Establishment of Grade.** At the request of the utility company, the Public Works Superintendent shall 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 Superintendent 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 may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 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, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

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** Excavations of Streets, Alleys, Public Ways and Grounds
- 6-2-4** Regulations Governing Excavations and Openings
- 6-2-5** Obstructions and Encroachments
- 6-2-6** Street Privilege Permit
- 6-2-7** Snow and Ice Removal
- 6-2-8** Terrace Areas
- 6-2-9** Vaults
- 6-2-10** Requests for Improvements
- 6-2-11** Unlawful Dumping on Streets
- 6-2-12** Obstruction of Public Ditches
- 6-2-13** Street Numbers
- 6-2-14** Use and/or Lease of Village Equipment
- 6-2-15** Dirt and Debris on Streets
- 6-2-16** Damages to Streets and Public Property
- 6-2-17** Adoption of State Statutes Concerning Roads
- 6-2-18** Grass Clippings
- 6-2-19** Alterations to Public Rights-of-Way by Private Parties

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 Board or its designee may cause the same to be done and report the cost thereof to the Village Administrator who shall spread the cost on the tax roll as a special tax against the premises, pursuant to 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) **Board May Order.** The Village Board may determine that sidewalks or curb and gutter may be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the Village. The Village Board may determine or change the width or grade of any street or sidewalk.
- (b) **Sidewalk Repair and Reconstruction.** The Village of Butler constructs and repairs sidewalks along or upon streets, alleys, or highways in the Village of Butler as required by the Village Board. Repair or reconstruction shall be paid for by the Village; new sidewalks shall have their initial cost paid for by the property owner.
- (c) **Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the Village of Butler unless he/she is under contract with the Village to do such work or has obtained a permit therefore from the Village Administrator or Public Works Superintendent at least two (2) days before work is proposed to be undertaken. A fee shall be charged pursuant to Section 1-3-1.
- (d) **Standard Specifications for Sidewalk.**
 - (1) **General.**
 - a. All sidewalks shall be constructed of masonry meeting Wisconsin Department of Transportation Standard Specifications, unless otherwise specified in this Section.
 - b. 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. All sidewalks constructed in the Village shall conform to the line and grade established by the ordinances or resolutions of the Village. 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 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 Board.
 - (2) **Subgrade.** All earth, dirt and material shall be removed to a depth, not less than three (3) inches, six (6) 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) **Concrete.** The minimum quantity of cement per cubic yard shall be six (6) ninety-four (94) pound sacks. 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.

- (4) **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 floats. 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.
- (5) **Jointing, Floating and Finishing.** Soon after screening and while the concrete is still plastic, 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.
- (6) **Slope.**
 - a. All forms must be approved by the Public Works Superintendent or other inspector designated by the Public Works Superintendent 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.
 - b. 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.
 - c. Sidewalks shall be constructed within the limits of the street, 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.
- (7) **Width and Thickness.**
 - a. All sidewalks constructed in the public right-of-way shall be not less than five (5) feet wide, except on West Hampton Avenue in which they shall be six (6) feet wide. In areas used for commercial or public assembly, the width shall be adequate to serve pedestrian traffic.
 - b. Residential walks shall be laid six (6) inches outside property line, but not less than four (4) inches in thickness, except within driveway approaches where the minimum thickness shall be seven (7) inches.

- c. Sidewalks in front of commercial or industrial establishments shall be not less than five (5) inches in thickness except within driveway approaches where the minimum thickness shall be seven (7) inches.
- (8) **Finishing.** The concrete shall be struck off true to grade, finished smooth and given a broom finish. All edges shall be rounded. 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. Walks 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. No concrete shall be poured when the temperature may be expected to fall below thirty-five (35) degrees F. in any seventy-two (72) hour period or upon frozen subgrade.
- (9) **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.
- (10) **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 specifications for cold weather concrete.
- (11) **Minor Repairs.** Nothing in this Section shall apply to minor repairs, the cost of which does not exceed Five Hundred Dollars (\$500.00); such repairs may be made at the direction of the Public Works Superintendent without notice, and the cost thereof may be charged to the abutting property owner in the same manner as provided in this Section for major repairs.
- (12) **Variances.**
 - a. **Location.** Where the location of a sidewalk in accordance with the specifications established herein would conflict with the location of trees, or the root systems thereof, a written variance to the specifications may be issued by the Public Works Superintendent permitting the sidewalk to be located so as to eliminate or reduce such conflict. No variance shall be issued if the public safety or welfare would be adversely affected thereby. No fee shall be charged for such variance.
 - b. **Material.** Where the property owner desires to use non-standard materials such as brick, aggregate or cobblestone, in the construction of a sidewalk, a written variance to the specifications established herein may be issued by the Village

Board to permit the use of such non-standard material. No variance shall be granted for any portion of a sidewalk which crosses or is part of a driveway, nor shall a variance be granted if the public safety or welfare would be adversely affected thereby. A condition of the granting of a variance under this subparagraph shall be the execution and recording of an indemnity agreement running with the land binding the property owner, his/her successors and assigns, holding the Village harmless from any liability, loss or damage resulting from the use of such non-standard materials. An application fee as prescribed in Section 1-3-1 shall be paid at the time of applying for the variance.

(e) **Repair or Replacement of Defective Sidewalks.**

(1) **Sidewalk Repair or Replacement.** Pursuant to Sec. 66.0907, Wis. Stats., the Village Board may order property owners to repair or remove and replace any sidewalk which is unsafe, defective or insufficient. If the property owner shall fail to so repair or remove and replace such sidewalk for a period of twenty (20) days after service of the notice provided in Sec. 66.0907, Wis. Stats., the Village Board shall cause the necessary repairs or construction of such sidewalk and the total cost of such repair or construction, except for one-half (1/2) of the cost of materials, shall be entered upon the tax roll as a special tax against said lot or parcel of land.

(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 shall determine whether a sidewalk is defective or insufficient:

1. One (1) inch or more vertical differential between adjacent sharp edged individual sidewalk blocks (crack in slab) and between adjacent round edged individual sidewalk blocks (joint).
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.

b. If eighty percent (80%) of a property owner's sidewalk blocks are determined to be defective or insufficient, the entire sidewalk shall be replaced.

(f) **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 Excavations of Streets, Alleys, Public Ways and Grounds.

(a) **Street Opening 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 Butler without a permit therefor from the Village Administrator or Public Works Superintendent.
- (2) **Fee.** The fee for each application for a street opening permit shall be as prescribed by Section 1-3-1, plus any actual Village expenses. Applications may be made for multiple street openings on one (1) application form; however, each opening must be listed at the time the application is submitted to the Public Works Superintendent or Village Administrator for approval. If the street opening is made prior to the receipt of an approved street opening permit from the Public Works Superintendent or Village Administrator, the application and review fee as prescribed by Section 1-3-1 shall be applicable, plus any actual 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 Superintendent or Village Administrator 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 Butler. The surcharge shall be determined as follows:

Age of the Final Paving	Surcharge
New pavement to 1 year	5 times the \$75 late permit fee
1 year to 2 years	4 times the \$75 late permit fee
2 years to 3 years	3 times the \$75 late permit fee
3 years to 4 years	2 times the \$75 late permit fee
4 years to 5 years	1 times the \$75 late 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 Administrator or Public Works Superintendent, 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 Administrator or Public Works Superintendent shall determine if sufficient information is submitted.
- (c) **Exception.** The provisions of this Section shall not apply to Village excavation work done under the direction of the Village Board or Public Works Superintendent.
- (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 Administrator or Public Works Superintendent. Permit renewals shall be issued at the discretion of the Village Administrator or Public Works Superintendent.
- (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 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 Butler named as an additional 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 Two Hundred Fifty Thousand (\$250,000.00) 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 One Hundred Thousand Dollars (\$100,000.00). Motor vehicle liability shall cover owned, non-owned and hired vehicles.
 - (3) **General Liability.** Prior to the commencement of excavation work, a permittee must furnish the Village satisfactory written evidence that he/she has in force and will maintain during the life of the permit and the period excavation, public liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence for property damage. This may be altered by the Village Administrator on small contracts. In the event the permittee claims to be self-insured, then he/she shall place on file with the Village Administrator a certificate of self-insurance in the sums set forth in this paragraph for personal injury and property damage and said permittee shall also execute to the Village an agreement to indemnify and save harmless the Village from any and all

liability for claims, accidents or damages caused by reasons of operation under the permit, whether or not the same are caused by the negligence of the permittee, the Village of Butler, or any other person, firm or corporation. 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 Butler, 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.
- (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.**

- (1) 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 Administrator, an indemnity bond in the sum of Ten Thousand Dollars (\$10,000.00), conditioned that he/she will indemnify and save harmless the Village of Butler and its officers from all liability for accidents and damage caused by any of the work covered by his/her permit, and that he/she will fill up 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 or 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. Such statement shall also guarantee that, if the Village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year.
- (2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the Village. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The Village shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.
- (3) 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 Village Board.

- (4) 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 for the cost of doing the work as set forth in the notice.
 - (5) 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 Village Board as necessary to adequately protect the public and the Village.
- (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 6-2-4, any and all subparagraphs thereunder, except that a Village public utility as defined within this Section. In lieu of filing a bond under Subsection (h) and a certificate of insurance and prior to the issuance of the required permit, public utilities shall file with the Village Administrator an agreement in writing to restore the public way in accordance with this Section and the specifications of the Public Works Superintendent and shall further indemnify and save harmless the Village from all liability and claims for damages arising out of or resulting from work or labor performed under the permit. If restoration of the public way is required, no further permits shall be issued to the utility involved until restoration has been completed and approved.

Sec. 6-2-4 Regulations Governing Excavations and Openings.

- (a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15th and April 1st except where it is determined by the Village Board or its designee to be an emergency excavation.
- (b) **Protection of Public.**
 - (1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Village Board or its designee, and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the Public Works Superintendent, 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 necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Village in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.
 - (3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his/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.
 - (4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Public Works Superintendent 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).
 - (5) When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Section 6-2-4(g).
 - (6) 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.
 - (7) No equipment or construction materials may be stored during non-working hours within Village roadway right-of-way.
 - (8) No steel track construction equipment may be driven on or over paved Village roadways.
 - (9) Prior to beginning any work on Village roadways, the Village Administrator's office and Public Works Superintendent shall be given the names and telephone numbers of at least two (2) contractor employees who may be contacted during non-working hours.
 - (10) Construction materials spilled or tracked on pavement shall be immediately swept off by power broom equipment.
 - (11) No excavated materials may be stored temporarily or permanently within Village roadway right-of-way.
- (c) **Pavement Removal.**
- (1) Removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be

kept to the minimum possible and acceptable for the convenience and safe performance of 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 Superintendent 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 Superintendent may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to insure a full depth of concrete at the joint.
- (d) **Excavation.**
- (1) All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.
 - (2) Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.
- (e) **Backfilling.**
- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight (8) inches in their greatest dimension, frozen lumps or other material which in, in the opinion of the Public Works Superintendent, is unsuitable.
 - (2) 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 Superintendent, hauled in.
 - (3) Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any

sanitary sewer, storm sewer, water, telephone, natural gas or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.

- (4) Mechanical compaction may be used on all materials used for trench backfill. Each layer (12-inch maximum) shall be uniformly compacted to a dry density of at least ninety-five percent (95%) of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction by flooding shall not be permitted.
 - (5) All excavations shall be subject to testing by the Village. Backfilled material not achieving the above compaction requirements shall be removed and recompactd by the permittee. The cost of any retesting shall be paid by the permittee.
 - (6) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.
- (f) **Notice.** It shall be the duty of the permittee to notify the Village Administrator or Public Works Superintendent and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Village Administrator or Public Works Superintendent shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.
- (g) **Pavement Replacement.**
- (1) Backfill material shall be left below the original surface to allow for four (4) inches of three (3) inch crushed stone and four (4) inches of three-quarter (3/4) inch crushed stone, plus the thickness of the required pavement structure. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter (3/4) inch crushed stone.
 - (2) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of a one and one-half (1-1/2) inch base layer and a one and one-half (1-1/2) inch top layer, with each layer compacted to maximum density and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-quarter (1/4) inch as measured with a ten (10) foot straight edge. 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 Village officials.

- (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) In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three (3) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified above by not later than the following June 1st, except as provided above. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.
 - (7) When a street is reconstructed, utility laterals shall also be installed, including sump pump laterals, even if not immediately needed.
- (h) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his/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 the Village office immediately.
- (i) **Excavation in New Streets Limited.** Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Village Administrator shall notify 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 its designee, 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.

- (j) **Repair by Village.** The Village 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.

Sec. 6-2-5 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, except as 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 6-2-6 of this Section pursuant to Sec. 66.0425, Wis. Stats.
 - (2) Building materials for the period authorized by the Public Works Superintendent which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.
 - (3) Excavations and openings permitted under Sections 6-2-3 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 (7) feet above the sidewalk, street or alley.
 - (6) Public utility encroachments authorized by state law or the Village Board.
 - (7) Goods, wares, merchandise or fixture being 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) **Standards.** 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 used for commercial uses.
 - (2) The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.

- (3) The placement of the fixture shall not significantly impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than three (3) feet at any point.
- (d) **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, 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) **Removal by Village for Obstruction and Encroachments Located in the Village Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if any Village enforcement official determines that a Village street, alley, public grounds or land dedicated for public use is obstructed or encumbered, 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) **Failure to Remove Obstruction.**
- (1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) 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 Administrator shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.
- (2) The failure of the Village Administrator to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the Village expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

Sec. 6-2-6 Street Privilege Permit.

- (a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways or places of the Village, such as for placement of a dumpster on public property, may be granted to applicants by the Village Administrator or for the purpose of moving any building or structure or of encumbering the street, alley, sidewalk or way with materials necessary in and about the construction or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Village Administrator shall request advisory recommendations from the Public Works Superintendent, Chief of Police

- Superintendent, Chief of Police and/or Building Inspector prior to issuance of the permit. Village officials may attach conditions to the permit, including proof of liability insurance.
- (b) **Bond.** No street privilege permit shall be issued until the applicant shall execute and file with the Village Administrator a bond in an amount determined by the Public Works Superintendent not exceeding Ten Thousand Dollars (\$10,000.00), conditioned that the applicant will indemnify and save harmless the Village 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, 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 Village Board, Public Works Superintendent, Chief of Police, Village Administrator or Building Inspector for violation thereof:
 - (1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.
 - (2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.
 - (3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.
 - (4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Village Board, shall continue during all hours of the day and night.
 - (5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.
 - (6) Buildings shall be moved only in accordance with the route prescribed by the Village Board.
 - (7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.
 - (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 Administrator, Chief of Police or Public Works Superintendent.

- (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 to do so, it shall be the duty of the Village Board to remove such obstruction and make return of the costs and expenses thereof to the Village Administrator 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. 6-2-7 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 Butler to remove, or cause to be removed, the snow or sleet from any and all sidewalks 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 or sleet (ice) 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 Superintendent shall remove or cause the snow or sleet (ice) 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 or sleet (ice). In the event a property owner has not paid all bills relating to ice or snow removal by the time that real estate taxes and other special charges are levied, the Village Administrator shall enter in the tax roll as a special tax against the real estate involved the total unpaid charges for ice and snow removal for the previous year. The ice and snow removal charges shall be collected in all respects like other taxes upon real estate and interest shall accrue thereon in like manner.
- (c) **Piling Snow in the Streets.**
- (1) No person, firm, or corporation shall place snow or cause snow to be placed upon any public street in such a manner as to obstruct or interfere with the free movement of traffic upon said street; nor shall any person, firm, or corporation, except Public Works Department employees in the discharge of their duties, place snow or cause snow to be placed upon the right-of-way of any street in such a manner that will interfere with snow removal operations or access to driveways by motorists; nor shall

any person, firm, or corporation engaged in snow removal operations deposit snow or cause snow to be deposited across the street from the property from which said snow is being taken.

- (2) No person, firm, or corporation shall place snow, allow snow to be placed, or cause snow to be placed to a height greater than thirty inches (30") above a place through the mean curb or street grade within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines, located a minimum of ten feet (10') from their intersection.
- (d) **Enforcement.** All sworn police officers and other designated Village officials and employees are hereby authorized and directed to enforce the provisions of this Section.
- (e) **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.
- (f) **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.
- (g) **Expense.** An account of the expenses incurred by the Village to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Said expenses shall be not less than Thirty Dollars (\$30.00). 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 Administrator shall enter those charges onto the tax roll as a special tax as provided by Sec. 66.0627, Wis. Stats.
- (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. 6-2-8 Terrace Areas.

- (a) **Definition.** The definition of "terrace" shall be as defined in Section 6-4-2(e).
- (b) **Noxious Weeds; Paving.** All that part of a residential terrace not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or

covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Village Board or its designee. Basketball backstops, statuary, structures, flag poles and other objects shall not be placed in the terrace area.

- (c) **Responsibility to Maintain.** Every owner of land in the Village whose land abuts a terrace is required to maintain, or have maintained by his/her tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

Cross Reference: Title 6, Chapter 4.

Sec. 6-2-9 Vaults.

All vaults and cisterns under sidewalks shall be prohibited.

Sec. 6-2-10 Requests for Improvements.

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

Sec. 6-2-11 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 of occupant thereof. Such unlawful material or obstruction may be removed by the Village and the cost thereof billed to the violator pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-2-12 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 and the cost thereof billed to the violator pursuant to Sec. 66.0627, Wis. Stats.

Sec. 6-2-13 Street Numbers.

(a) **Buildings to Have Street Numbers.**

- (1) **County Grid System.** The Village building numbering system is based on the Waukesha County Basic Grid and the number system which was planned for the original plat of New Butler.
- (2) **Issuing New Numbers.** At the time of issuance of a building permit for any new building in the Village, the appropriate number shall be a part of the permit, which is issued by the Building Inspector. The builder and/or owner of any new building shall be notified that an appropriate number plate, readily observable from the public highway, will be installed not less than fifteen (15) days after occupancy.

(b) **Street Numbers to Be Displayed.** The owner, occupant or agent in charge of the premises shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him/her the official street number assigned to that building as provided in (a) hereof. The physical numbers provided herein shall be black on white and be not less than two and one-half (2-1/2) inches high on a background of not less than three (3) inches. Scrip-style numbers shall not be used as the primary numbering for a parcel. Each required number shall be affixed on the particular building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts. For buildings abutting also on a public alley, the street number shall also be affixed in such location that it may be seen in like manner from such alley.

(c) **Noncompliance.** If the owner or occupant of any building neglects for twenty (20) days to duly attach and maintain the proper numbers on the building, the Village shall serve him/her a notice requiring him/her to properly number the same, and if he/she neglects to do so for ten (10) days after service, he/she shall be subject to a forfeiture as provided in Section 1-1-6.

Sec. 6-2-14 Use and/or Lease of Village Equipment.

The Village of Butler shall not permit any person to use and/or lease any Village office or public works equipment for private purposes, unless specifically authorized by the Village Board.

Sec. 6-2-15 Dirt and Debris on Streets.

- (a) 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 Butler.
- (b) 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 of Butler shall immediately remove said materials at no cost to the Village.
 - (c)
 - (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 of Butler shall immediately stop and remove said materials at no cost to the Village.
 - (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 Butler, 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.
 - (d) 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) 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. 6-2-16 Damage to Streets and Public Property.

- (a) 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 Butler.
- (b) The person which causes damage, injury, or destruction of any portion of any street, sidewalk, alley, drainageway, or public ground in the Village of Butler shall immediately stop and notify the Police Department that he/she has caused such damages and shall correct said damages within ten (10) days at no cost to the Village.
- (c)
 - (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 Butler, 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 Butler, and which said operator fails to correct said damages as required in Section (c) 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.
- (d) In the event the damages are not corrected within ten (10) days, the Village 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 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) 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. 6-2-17 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. 80.32 Highways, Discontinuance of.
- (b) Sec. 80.47 Streets, Right of Abutting Owners.
- (c) Sec. 81.15 Highways, Liability for Defects.
- (d) Sec. 86.03 Trees, On and Adjacent to Highways.
- (e) Sec. 86.04 Highway Encroachments
- (f) Sec. 86.05 Highways, Duty to Restore Entrances.
- (g) Sec. 86.06 Highways, Closing to Travel.
- (h) Sec. 86.07 Highways, Depositing Rubbish or Digging In.
- (i) Sec. 86.105 Driveways, Snow Removal.
- (j) Sec. 86.19 Highway Signs, Regulation, Prohibition.
- (k) Sec. 146.13 Highways and Surface Waters, Discharging Noxious Matter Into.

Sec. 6-2-18 Grass Clippings.

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 Butler where such grass clippings could wash into any storm sewer drainage inlet in significant quantities.

Sec. 6-2-19 Alterations to Public Rights-of-Way by Private Parties.

- (a) **Permit Required.** Any person desiring to pave, or to make any other alteration in the condition of, or to erect any encroachment upon, any public right-of-way within the Village of Butler shall first obtain a permit therefor from the Village Board.
- (b) **Terms and Conditions of Permit.** Every permit granted by the Village Board shall contain and be subject to the following terms and conditions:
 - (1) The applicant shall agree to be liable for, and to hold the Village harmless from, all damages which occur during the progress of the construction of any paving, alteration, or encroachment, or which subsequently results from said construction.
 - (2) The applicant shall further agree to be liable for, and to hold the Village of Butler harmless from, all damages which result from either the existence or the maintenance of the paving, alteration, or encroachment.
 - (3) The applicant shall further agree to construct and maintain the paving, alteration, or encroachment exactly as described in the Application for Permit, and also in accordance with the ordinances, rules, and regulations of the Village. Applicant also agrees to perform and complete all work thereon to the satisfaction of the Village.
 - (4) The applicant shall further agree that any permit granted pursuant to this Section is terminable at will by the Village Board whenever the Village Board determines that it is in the public interest that such paving, alteration, or encroachment be removed from the public right-of-way, in whole or in part. In the event of termination, applicant agrees to promptly remove, at his/her own expense, the paving, alteration, or encroachment, and to restore the public right-of-way, as nearly as practicable, to its former condition.
- (c) **Application for Permit; Fee.** Applications for a permit shall be upon forms prescribed by the Village Administrator and shall clearly describe the proposed paving, alteration, or encroachment and shall locate same on an accurate scale drawing of the lot or lots involved. A filing fee as prescribed in Section 1-3-1 shall accompany each application. The Village Administrator shall forthwith transmit any application filed pursuant to this Section to the Village Board for action. Following action by the Village Board, the Village Administrator shall forward a copy of the permit to the applicant, or shall notify the applicant of the denial of his/her application, as the case may require.

Title 6 ► Chapter 3

Driveways

- 6-3-1** Driveway Permit Required
- 6-3-2** Driveway Location, Design and Construction Requirements

Sec. 6-3-1 Driveway Permit Required.

- (a) **Purpose.** For the safety of the general public, the Village shall determine the location, size, construction and number of access points to public roadways within the Village limits. It is the Village's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.
- (b) **Permit Required to Construct, Reconstruct, Alter or Enlarge.** No person, firm or 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 Butler without first obtaining a driveway permit therefor as provided by this Chapter. A driveway permit is not required when a new driveway is to be constructed in conjunction with the construction of a new principal structure; the driveway is included in the building permit process in such cases.
- (c) **Application.** Application for such permit shall be made to the Village Administrator or Public Works Superintendent on a form provided by the Village and shall be accompanied by a drawing accurately depicting the portion of the proposed private driveway to be constructed, reconstructed, altered or enlarged lying within the dedicated portion of the public street, the dimensions thereof and a statement of the materials proposed to be used. There shall be a fee for a driveway permit as prescribed by Section 1-3-1, except that there shall be no fee for reconstruction of an existing driveway. 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 Village Administrator or Public Works Superintendent shall approve such application if the proposed driveway complies with the terms and conditions of this and any other applicable Village ordinance.
- (d) **Application Provisions.** All driveway permit applications shall contain the applicant's statement that:

- (1) The applicant represents all parties in interest, and that such proposed driveway is for the bona fide purpose of securing access to his/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, 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 Butler, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the exercise of such permit.
- (4) The Village does not assume any responsibility for the removal or clearance of snow, ice or sleet or the opening of any windrows of such material upon such portion of such driveway within the dedicated portion of the Village street.

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

- (a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following and the specific design requirements of Section 13-1-97:
 - (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 as prescribed in Section 13-1-97 except by special permission from the Village Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.
 - (2) **Number.** The number of driveways to serve an individual property fronting on a street shall be two (2), 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 non-curb/gutter type street cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the street roadbed.
 - (5) **Reconstruction of Sidewalks and Curb and Gutter.** When the construction of a driveway requires the removal of a curb or gutter the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway surface shall be connected with the highway pavement and the sidewalk, if any, in a neat, workmanlike manner. The driveway apron from the street and/or curb to the outer edge of the adjacent sidewalk (or where a sidewalk would typically be constructed) shall be paved. 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. Reconstructed or new sidewalks across driveways shall meet the construction standards of Sections 6-2-2 and 13-1-97.
 - (6) **Restricted Areas.** The restricted area between successive driveways may be filled in and graded only when the following requirements are complied with:
 - a. The filling or draining shall be to grades approved by the Village and, except where highway drainage is by means of curb and gutter, water drainage of the area shall be directed away from the street roadbed in a suitable manner.
 - b. Culvert extensions under the restricted area shall be of the same size and of equivalent acceptable material as the culvert under the driveway. Intermediate manholes adequate for cleanout purposes may be required where the total culvert length is excessive.
 - c. Where no street side ditch separates the restricted area from the street roadbed, permanent provision may be required to separate the area from the street roadbed to prevent its use for driveway or parking purposes by construction of a border, curb, rail or posts as may be required by the Village Board.
 - (7) **Relocation of Utilities.** Any costs of relocating public utilities shall be the responsibility of the property owner with approval of the Village Board or authorized committee thereof necessary before any utility may be relocated and the driveway installed.
 - (8) **Construction Across Sidewalks.** All driveway entrances and approaches which are constructed across sidewalks shall be of concrete constructed in accordance with the requirements for sidewalk construction in Section 6-2-2 of this Code insofar as such requirements are applicable, including thickness requirements.
 - (9) **Variations.** Any of the above requirements may be varied by the Village Board, following a recommendation from the Public Works Superintendent, 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.** No part of a private driveway located within the dedicated area of a public street shall, except as hereinafter provided, have a width as prescribed in 13-1-97 measured at the outer or street edge of the sidewalk. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Village Board in its discretion may permit a driveway of additional width.
- (c) **Special Requirements for Residential Driveways.** The following regulations are applicable to driveways serving residential property:
 - (1) **Width of Driveways.** Openings for vehicular ingress and egress shall be as prescribed in Section 13-1-97 at the property line for residential properties.
 - (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 Village Administrator or Public Works Superintendent to issue a permit for a private driveway may appeal such refusal to the Village Board within twenty (20) days after such refusal to issue such permit is made.
- (e) **Prohibited Driveways.**
 - (1) No person, firm or 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 Butler except as permitted by this Section. As used herein the word "structure" includes private driveways, a portion of which extends into any public road, highway or street, and which is in non-conformance with this Chapter.
 - (2) No driveway shall be closer than ten (10) feet to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Village for effective traffic control or for highway signs or signals.
 - (3) The grade of that portion of any private driveway 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 in a downward manner at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
 - (4) No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any gutter area. All driveway entrances and approaches shall be constructed as not to interfere with the drainage of streets, side ditches or roadside areas, or with any existing structure on the right-of-way.
 - (5) No portion of any curb, parapet or retaining wall, rising above the grade of the driveway, erected by the owner of the premises involved shall extend beyond the culvert spanning the water course located in such public way.

(f) **Culvert Construction and Standards.**

- (1) **Size.** When directed by the Village, 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 Superintendent.
- (2) **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

- (3) **Drainage.** The culverts shall be placed in the ditchline at elevations that will assure proper drainage.
- (4) **Endwalls.** Culverts shall be provided with earthen, concrete or metal apron endwalls as directed by the Village Engineer or Public Works Superintendent.
- (5) **Backfill Material.** Material used for backfill shall be of quantity acceptable to the Village Engineer or Public Works Superintendent and shall be free from frozen lumps, wood, or other extraneous or perishable materials. The minimum cover, measured from the top of the pipe to the top of the subgrade, shall be six (6) inches.
- (6) **Erosion Control.** Erosion control measures shall be implemented as necessary to control erosion, or as directed by the Village Engineer or Public Works Superintendent.
- (7) **Distance.** The distance between culverts under successive driveways shall not be less than ten (10) feet except as such restricted area is permitted to be filled pursuant to Subsection (a)(6).

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

Cross-Reference: Section 13-1-97.

Title 6 ► Chapter 4

Trees and Shrubs

6-4-1	Statement of Policy and Applicability of Chapter
6-4-2	Definitions
6-4-3	Authority of Village Forester to Enter Private Premises
6-4-4	Interference with Village Forester Prohibited
6-4-5	Abatement of Tree Disease Nuisances
6-4-6	Assessment of Costs of Abatement
6-4-7	Planting or Removal of Public Area Trees and Shrubs
6-4-8	Trimming
6-4-9	Trees and Shrubbery Obstructing View at Intersections or View of Traffic Signs
6-4-10	Prohibited Acts
6-4-11	Appeal from Determinations and Orders
6-4-12	Adoption of State Statutes

Sec. 6-4-1 Statement of Policy and Applicability of Chapter.

- (a) **Intent and Purpose.** It is the policy of the Village of Butler to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the Village to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the Village; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and 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) **Person.** "Person" shall mean person, firm, association or corporation.
- (b) **Public Areas.** "Public Areas" includes all public parks and other lands owned, controlled or leased by the Village except the terrace areas.
- (c) **Public Trees and Shrubs.** "Public Trees and Shrubs" means all trees and shrubs located or to be planted in or upon public areas.
- (d) **Public Nuisance.** "Public Nuisance" 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.
- (e) **Boulevard or Terrace Areas.** "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 boulevard 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 boulevard areas under this Chapter.
- (f) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.
- (g) **Shrubs.** "Shrubs" shall mean any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.
- (h) **Tree.** "Tree" shall mean 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.
- (i) **Evergreen Tree.** "Evergreen Tree" shall mean 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.
- (j) **Forester.** Person or Village employee 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. The Village Forester shall annually be appointed by the Village President, subject to Board confirmation, at the Board's organizational meetings. Such duties may be assigned to the Director of Public Works or Weed Commissioner.

Sec. 6-4-3 Authority of Village Forester to Enter Private Premises.

The Village Forester or his/her authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this 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) **Dutch Elm and Other Tree Diseases a Public Nuisance.** Whereas the Village Board has determined that there are many trees growing on public and private premises within the Village, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the Village, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.), 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 and the elm bark beetles which carry such disease to be public nuisances.
- (b) **Definitions.** As used in this Section, unless otherwise clearly indicated by the context:
- (1) "Public Nuisance" in this Chapter means:
 - a. Fatal or deleterious tree diseases.
 - b. Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.); Dutch Elm disease.
 - c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
 - d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
 - e. Any other deleterious or fatal tree disease.
 - f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public or private place, including the terrace strip between curb and lot line.
 - g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.
 - (2) "Public property" means owned or controlled by the Village, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.
 - (3) "Person" means person, firm or corporation.
- (c) **Inspection.**
- (1) The Village Forester shall inspect or cause to be inspected all premises and places within the Village to determine whether any public nuisance exists thereon. He/she shall also inspect or cause the inspection of any elm tree reported or suspected to be infested with the Dutch Elm disease or any elm bark bearing materials reported or suspected to be infested with elm bark beetles.

- (2) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.
- (3) The Forester and his/her agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.

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

- (1) 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 spraying, removal, burning or by other means which he/she determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.
- (2) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the Village, the Forester shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease, other deleterious tree diseases, or the insect pests or vectors known to carry such disease fungus.
- (3) 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 registered 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 publication in a newspaper of general circulation in the Village.
- 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 assessed 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) **Spraying.**

- (1) Whenever the Forester shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, the Forester may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed with an effective disease destroying concentrate or other insecticide, following prior authorization by the Village Board.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the Forester shall also notify the Director of Public Works who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each block of any affected street at least twenty-four (24) hours in advance of spraying operations.
- (3) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection (b) of this Section, the Village shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with the requirements of Subsection (d)(3).

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

- (a) **Public Premises.** The entire cost of abating any public nuisance or spraying any elm tree, or part thereof, when done at the direction of the Forester shall be borne by the Village as to any growth, tree or shrub located upon property owned by the Village. The abating of a public nuisance or spraying elm trees or elm wood located upon a terraced strip between the lot line and the curb shall be considered private property.
- (b) **Private Premises.** The cost of abating a public nuisance or spraying diseased trees located on private premises when done at the direction and under the supervision of the Forester shall be assessed to the property on which such nuisance, tree or wood is located as follows:
 - (1) The Forester shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges,

- description of lands to which charged and names and addresses of the owners of such lands to the Village Board on or before October 15 of each year.
- (2) Upon receiving the Forester's report, the Village Board, 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. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.
 - (3) After such hearing, the Village Board, or a designated standing committee thereof, shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
 - (4) The Village Administrator shall mail notice of the amount of such final assessment to each owner of property assessed at his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.
 - (5) The Village hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof.

Sec. 6-4-7 Planting or Removal of Public Area Trees and Shrubs.

- (a) **Purpose.** The Village Board hereby states its determination that the planting, care and protection of the trees within the Village is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.
- (b) **Street Tree Plan Adopted.**
 - (1) **Tree Planting Program.** The Village Board shall develop and establish a plan for the orderly planting of trees in the terraces along Village streets to reduce conflicts between trees and other public use of streets, to facilitate care of the Village trees, and to make the Village of Butler a more attractive community in which to live. The plan shall designate the species of tree for each street and shall take into consideration the mature size and requirements of the species, the width of the terrace, depth of setback of buildings, location of street lights, safety signals and signs, existing desirable trees, and any other site factors. The annual planting plan and any subsequent changes shall be approved by the Village Board.

- (2) **Planting of Trees When Streets are Widened.** When trees are removed in preparation for widening of any established street, new trees will be planted and provided, if, in the opinion of the Village Board, there is adequate land in the terrace to reasonably support tree growth. The cost of this replanting shall be borne by the Village. The Village Forester shall determine the location of each tree to be planted and the species.
 - (3) **New Streets.** Following the installation of curbing and sidewalks, the Village Board shall cause trees to be planted in the terraces of such streets in the proper season. The location of each tree, the species, and size of stock shall be determined by the Village Board or Village Forester. All or part of the cost of such planting may be assessed against each lot or parcel of adjacent property in accordance with Sections 27.07 or 66.0627, Wis. Stats. The Village shall replace any tree planted under this plan which does not survive five (5) years at no additional cost to the owners of adjacent property.
 - (4) **Planting Along Established Streets.** When, in the opinion of the Village Board, the terraces along any established street can be improved by planned tree planting, the Board shall announce its plans to plant trees in the terraces in the same manner as other street improvements are announced. The Village Board or its designee shall remove existing trees which, in its opinion, would conflict with the new planting and replant the terraces along such streets. The cost of the removal of existing trees shall be borne by the Village. All or part of the cost of such replanting may be assessed against owners of adjacent property in accordance with Sections 27.09 or 66.0627, Wis. Stats. The Village shall replace any trees planted under this provision which do not survive five (5) years at no additional cost to the owner of adjacent property.
 - (5) **Planting Along Unimproved Streets or Other Sites.** Should any owner of adjacent property desire to plant a tree on any public place, a permit shall be obtained from the Village Forester in which the species, size of the tree, and location shall be designated. The cost of such planting shall be borne by the property owner.
- (c) **Cottonwood and Box Elder Trees Prohibited.** No person shall plant within the Village of Butler 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 Administrator who shall place such charge upon the next tax roll as a special charge against the premises.
- (d) **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 or nut tree in or upon any public street, parkway, terrace

or other public place within the Village of Butler 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.

(e) **Planting.**

- (1) 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) 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.
- (3) Trees may *not* be planted in the terrace closer than:
 - a. Twenty (20) feet to a utility or street lighting pole.
 - b. Fifteen (15) feet to a driveway or alley.
 - c. Six (6) feet to a fire hydrant, water stop box or gas shut-off. If possible, allow more distance than six (6) feet.
 - d. Twenty-five (25) feet to the intersection of two (2) streets from either corner measured on the property line.
 - e. Twenty-five (25) feet to another tree. [If the other tree is an elm or other species which is damaged, injured or diseased and likely to be removed in the future, then a thirty-five (35) foot distance to the next nearest healthy tree will prevail.]
- (4) 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.
- (5) The property owner has the responsibility to locate underground utilities before digging.
- (6) Evergreen trees shall not be planted in a terrace area.

- (f) **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 may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (g) **Frames.** Any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame for protection, but all such work shall be performed under the supervision and direction of the Village Forester.
- (h) **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) Ash, Green (*Fraxinus pennsylvanica*), and Ash, White especially the seedless cultivars (e.g., Marshall's Seedless, Tatmore, Urbanite); vastly overplanted
 - (4) Birch, River (*Betula nigra*), especially Heritage
 - (5) Cherry, Sargent (*Prunus sargentii*)
 - (6) Chokecherry, Schubert (*Prunus virginiana* "Schubertii")
 - (7) Corktree, Amur (*Phellodendron amurense*)
 - (8) Corktree, Sakhalin (*Phellodendron sakhalinense*)
 - (9) Dogwood, Kousa (*Cornus kousa*)
 - (10) Dogwood, Corrciancherry (*Cornus mas*)
 - (11) Elm, Chinese (*Ulmus parvifolia*; *not* Siberian elm)
 - (12) Ginkgo (*Ginkgo biloba*), male clones only
 - (13) Hackberry (*Celtis occidentalis*), esp. Chicagoland, Prairie Pride and Windy City
 - (14) Honeylocust, Thornless Common (*Gleditsia triacanthos inermis*), many cultivars available; vastly overused; would discourage continued planting
 - (15) Hornbeam, American (*Carpinus caroliniana*)
 - (16) Hornbeam, European (*Carpinus betulus*)
 - (17) Hophornbeam, American (*Ostrya virginiana*)
 - (18) Katsuratree (*Cercidiphyllum japonicum*)
 - (19) Linden, Crimean (*Tilia X euchlora*), esp.
 - (20) Linden, Littleleaf (*Tilia cordata*), esp. Glenleven, Greenspire and June Bride
 - (21) Linden, Silver (*Tilia tomertosa*)
 - (22) Maple, Hedge (*Acer campestre*)
 - (23) Maple, Paperbark (*Acer griseum*)
 - (24) Maple, Three-flower (*Acer triflorum*)

- (25) Maple, Miyabe (*Acer miyabei*)
- (26) 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
- (27) Maple, Red (*Acer rubrum*), esp. Autumn Blaze, Marmo, Morgan, Northwood, October Glory and Red Sunset
- (28) Maple, Sycamore (*Acer pseudoplatanus*)
- (29) Maple, Tartarian (*Acer tataricum*)
- (30) Maple, Purpleblow (*Acer truncatum*)
- (31) Oak, Bur (*Quercus macrocarpa*)
- (32) Oak, English (*Quercus robur*)
- (33) Oak, Pin
- (34) Oak, Red (*Quercus rubra* or *Q. borealis*)
- (35) 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]

(i) **Removal of Public Trees and Shrubs.**

- (1) **Permit Required.** No person, except upon order of the Village Forester, shall remove, transplant, move, spray, brace, trim, prune, cut above or below the ground, disturb, alter, or do surgery on any public tree or shrub within the Village or cause such acts to be done by others without first obtaining a written permit for such work from the Village Forester as herein provided.
- (2) **Requirements and Conditions of Permits.** If the Village Forester determines that the proposed work described in an application for a permit is necessary and in accord with the purposes of this Section, 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, type of soil, characteristics, and physiological needs of the species or variety of tree or shrub, the Village Forester shall issue a permit to the applicant.
- (3) **Condition of Removal.** As a condition of granting any permit to remove a public tree or shrub, the Village Forester 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 conditional permit shall fail, refuse, or neglect to plant trees or shrubs of the type, size, and in the location specified in his/her permit.

Sec. 6-4-8 Trimming.

- (a) Prior to major trimming activity involving a public tree, the permit requirements of Section 6-4-7(a) shall be complied with. Generally, it is the policy of the Village of Butler that the trimming or planting of public trees shall be done by the Village or its agents.

- (b) Trees and shrubs standing in or upon any boulevard, public area or upon any private premises adjacent to any public right-of-way or public areas shall be kept trimmed so that the lowest branches projecting over the public street or alley generally 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.
- (c) The necessity of the pruning may be determined by the Village Forester.
- (d) 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 street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than seven (7) feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp.
- (e) Trimming or pruning of more than two-thirds (2/3) of the crown shall be considered to be a major alteration and shall require authorization from the Village Forester.

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

- (a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the Village any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the Village. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the 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 tax upon the property upon which or in front of which such tree or shrub stands.

- (d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the Village Forester as specified in Subsection (c) above shall, 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 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.
- (b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the Village Forester.
- (c) **Interference With Forester.** No person shall:
- (1) Interfere with or prevent any acts of the Forester or his/her agents or employees while they are engaged in the performance of duties imposed by this Section.
 - (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 Section.
- (d) **Refusal to Abate Nuisance.** Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

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 Board shall file its written decision with the Village Administrator.

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.